

ARKANSAS CODE
OF 1987
ANNOTATED
OFFICIAL EDITION



VOLUME 25B • TITLE 24, CH. 9-12; TITLE 25



Digitized by the Internet Archive
in 2013

ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 25B

2002 Replacement

TITLE 24: RETIREMENT AND PENSIONS (CHAPTERS 9-12)

TITLE 25: STATE GOVERNMENT

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
ARKANSAS CODE REVISION COMMISSION

Representative Steve Napper, *Chair*

Senator Mike Beebe

Senator Kevin Smith

Representative Sandra Rodgers

Honorable James H. McKenzie

Honorable Douglas O. Smith, Jr.

Honorable William H. "Buddy" Sutton, Jr.

Honorable Chuck Goldner, *Dean, University of Arkansas at
Little Rock, School of Law*

Honorable Robert Moberly, *Dean, University of Arkansas at
Fayetteville, School of Law*

Honorable Mark Pryor, *Attorney General*

Honorable David Ferguson, *Administrator of the
Legal Staff Section, Bureau of Legislative Research*



LexisNexis™

COPYRIGHT © 1987, 1992, 1996, 2002

BY

THE STATE OF ARKANSAS

All Rights Reserved

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc. used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

4072212

ISBN: 0-327-16081-0



Matthew Bender & Company, Inc.

P.O. Box 7587, Charlottesville, VA 22906-7587

www.lexis.com

Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2001 Regular Session. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions through 2002 Ark. Lexis 73 (January 31, 2002) and 2002 Ark. App. LEXIS 18 (January 30, 2002).

Federal Supplement through February 1, 2002.

Federal Reporter 3d Series through February 1, 2002.

United States Supreme Court Reports, through February 1, 2002.

Bankruptcy Reporter through February 1, 2002.

Arkansas Law Notes through the 2001 Edition.

Arkansas Law Review through Volume 54, p. 207.

University of Arkansas at Little Rock Law Journal through Volume 24, p. 233.

Titles of the Arkansas Code

- | | |
|---|---|
| 1. General Provisions | 16. Practice, Procedure, and Courts |
| 2. Agriculture | 17. Professions, Occupations, and Businesses |
| 3. Alcoholic Beverages | 18. Property |
| 4. Business and Commercial Law | 19. Public Finance |
| 5. Criminal Offenses | 20. Public Health and Welfare |
| 6. Education | 21. Public Officers and Employees |
| 7. Elections | 22. Public Property |
| 8. Environmental Law | 23. Public Utilities and Regulated Industries |
| 9. Family Law | 24. Retirement and Pensions |
| 10. General Assembly | 25. State Government |
| 11. Labor and Industrial Relations | 26. Taxation |
| 12. Law Enforcement, Emergency Management, and Military Affairs | 27. Transportation |
| 13. Libraries, Archives, and Cultural Resources | 28. Wills, Estates, and Fiduciary Relationships |
| 14. Local Government | 29. Special, Local, and Other Legislation |
| 15. Natural Resources and Economic Development | |

User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1 of the Code.

TITLE 24

RETIREMENT AND PENSIONS

(CHAPTERS 1-8 IN VOLUME 25A)

CHAPTER.

1. GENERAL PROVISIONS.
2. PUBLIC EMPLOYEE RETIREMENT PLANS GENERALLY.
3. UNIFORM BENEFITS — FINANCING, ACCOUNTING, AND REPORTING STANDARDS.
4. ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM.
5. ARKANSAS STATE HIGHWAY EMPLOYEES' RETIREMENT.
6. STATE POLICE RETIREMENT.
7. RETIREMENT OF EMPLOYEES OF SCHOOLS AND EDUCATIONAL INSTITUTIONS.
8. RETIREMENT OF JUDGES AND COURT EMPLOYEES.
9. LOCAL PENSION FUNDS GENERALLY.
10. ARKANSAS LOCAL POLICE AND FIRE RETIREMENT SYSTEM.
11. LOCAL POLICE AND FIRE PENSION AND RELIEF FUNDS.
12. LOCAL OFFICERS AND EMPLOYEES — MISCELLANEOUS PROVISIONS.

CHAPTER 9

LOCAL PENSION FUNDS GENERALLY

SUBCHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. INVESTMENT OF PENSION AND TRUST FUNDS.

SUBCHAPTER 1 — GENERAL PROVISIONS

[Reserved]

SUBCHAPTER 2 — INVESTMENT OF PENSION AND TRUST FUNDS

SECTION.

- 24-9-201. Legislative intent.
- 24-9-202. Definition.
- 24-9-203. Applicability.
- 24-9-204. Employment of trust administrators.

SECTION.

- 24-9-205. Bank accounts.
- 24-9-206. Certificates of deposit.
- 24-9-207. Registered securities.
- 24-9-208. Negotiable securities.
- 24-9-209. Listing of securities.

Cross References. Arkansas Local Police and Fire Retirement System, investments, § 24-10-402.

Public employee retirement plans generally, investments, § 24-2-201 et seq.

24-9-201. Legislative intent.

Authorized investments of moneys by the governing bodies of the various trust funds within this state are now provided by law. It is not the intent of this subchapter to change or prescribe the allowable investments in certificates of deposit, registered securities, or negotiable securities.

History. Acts 1973, No. 282, § 3;
A.S.A. 1947, § 13-2103.

24-9-202. Definition.

As used in this subchapter, unless the context otherwise requires, "trust funds" means all assets and holdings of the various firemen's and policemen's pension funds of this state. In addition, other assets and holdings which are of a trust nature and are under the administration of political subdivisions of this state are, for purposes of this subchapter, to be considered trust funds. However, trust funds shall not include funds required to be maintained by ordinances, resolutions, or indentures securing bond issues of political subdivisions.

History. Acts 1973, No. 282, § 1;
A.S.A. 1947, § 13-2101.

24-9-203. Applicability.

This subchapter shall apply to all funds as defined in § 24-9-202 and administered by any political subdivision of this state.

History. Acts 1973, No. 282, § 2;
A.S.A. 1947, § 13-2102.

24-9-204. Employment of trust administrators.

(a) By board action, the board of trustees may employ a commercial firm normally engaged in providing trust services, if each employee of the trust department who handles the trust funds is covered by a good and sufficient fidelity bond, to act as the agent for the board of the trust for the purpose of maintaining and administering the fund and to provide such assistance or services as the board of the trust may reasonably require in the performance of its duties.

(b) The bank or firm so employed shall not have the authority to make any investment decision or any determination as to the eligibility of any person entitled to receive a pension or any other benefit from the fund, nor to make any determination as to the amount of any pension or benefit which any person may be entitled to receive from the fund.

History. Acts 1973, No. 282, § 8;
A.S.A. 1947, § 13-2108.

24-9-205. Bank accounts.

When the governing body of a trust deposits money of that trust in a commercial bank account or in a trust account of a trust department of a bank or other firm normally engaged in providing trust services, the following minimum requirements must be met:

- (1) Funds must be deposited in the account in the name of the trust;
- (2) Withdrawals from the account, whether by check or warrant, shall require the signatures of the chair and the treasurer of the board of the trust;
- (3)(A) The treasurer shall execute a bond to the board of trustees with good and sufficient sureties in such penal sum as the board shall direct, conditioned on the faithful performance of the duties of his or her office.
- (B) The bond shall be filed in the office of the board of trustees.

History. Acts 1973, No. 282, § 4;
A.S.A. 1947, § 13-2104.

24-9-206. Certificates of deposit.

When a governing body of a trust shall decide to invest moneys belonging to the trust in certificates of deposit, the following conditions must be met:

- (1) The certificate of deposit must be issued in the name of the trust;
- (2) The certificate, when received, must be maintained at the office of the board of trustees or in the trust department of a firm normally engaged in providing trust services; and
- (3) Subsequent to the purchasing of a certificate of deposit, the board of trustees shall be required to request confirmation of the validity of the certificate directly from the issuing bank.

History. Acts 1973, No. 282, § 5;
A.S.A. 1947, § 13-2105.

24-9-207. Registered securities.

(a)(1) When the governing body of a trust decides to invest trust moneys in registered securities, all the securities purchased shall be issued in the name of the trust with at least the signatures of two (2) members of the board required for renegotiation of the securities.

(2) One (1) signature shall be that of the board treasurer and the other that of the chair of the board.

(b) The securities are to be maintained in the office of the board of trustees or the trust department of a commercial firm normally engaged in providing trust services.

(c)(1) Subsequent to the purchase of the securities, the board of trustees shall request confirmation directly from the issuing company of the registration of the securities. The confirmation shall be made by the board independently of the agent through whom the securities were purchased.

(2) The board of trustees shall maintain copies of the confirmation letters as a part of its records.

History. Acts 1973, No. 282, § 6;
A.S.A. 1947, § 13-2106.

24-9-208. Negotiable securities.

(a) When the board of trustees of a trust decides to invest trust moneys in negotiable securities, the board shall purchase the securities from reputable bonded dealers in those securities.

(b) The board shall require the dealers to certify to the authenticity of the securities.

(c) The securities shall be held in the office of the board of trustees or by the trust department of a commercial firm normally engaged in providing trust services.

(d) The sale of negotiable securities shall require written authorization from at least two (2) board members, one being the board treasurer and the other the chair of the board.

History. Acts 1973, No. 282, § 7;
A.S.A. 1947, § 13-2107.

24-9-209. Listing of securities.

(a) The board shall maintain a detailed listing of all securities owned by the trust.

(b) Purchases and sales of securities shall be by official board action documented in the board minutes.

History. Acts 1973, No. 282, § 9;
A.S.A. 1947, § 13-2109.

CHAPTER 10

ARKANSAS LOCAL POLICE AND FIRE RETIREMENT SYSTEM

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. BOARD OF TRUSTEES.
3. MEMBERSHIP.
4. FUNDS — CONTRIBUTIONS — MANAGEMENT OF ASSETS.
5. CREDITED SERVICE.
6. BENEFITS.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-6 may not apply to §§ 24-10-303 and 24-10-411, which were enacted subsequently.

References to “this chapter” in §§ 24-

10-101 to 24-10-105 and 24-10-201 to 24-10-616 may not apply to § 24-10-106 which was enacted subsequently.

References to “this chapter” in subchapters 1-5 and §§ 24-10-601 to 24-

10-616 may not apply to §§ 24-10-617 to 24-10-619 which were enacted subsequently.

RESEARCH REFERENCES

Am. Jur. 60A Am. Jur. 2d, Pensions, §§ 1616 — 1618, 1633.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

24-10-101. Purpose.

24-10-102. Definitions.

24-10-103. Tax exemption.

24-10-104. Correction of errors.

SECTION.

24-10-105. Penalty.

24-10-106. Limitation on benefit enhancement of Acts 1997, No. 769.

Cross References. Fire and Police Pension Review Board, § 24-11-203.

Effective Dates. Acts 1983, No. 645, § 3: Mar. 22, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the legislature intended to include all political subdivisions with fire departments when the Arkansas Local Police and Fire Retirement System was established by Act 364 of 1981, and that this Act is necessary to clarify the present misunderstanding with respect to fire improvement districts. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 955, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second

General Assembly that various Arkansas public retirement systems have reduced the amount of service credit needed for full retirement to twenty-eight (28) years of credited service, that retirement benefits are an important incentive to keep experienced policemen and firemen on the job and to reward them for their faithful service, that experienced policemen and firemen are a valuable human resource and should be encouraged to stay on the job by keeping their fringe benefits equal with those of other public employees, and that the beginning of the state's fiscal year is the best time to implement any change in retirement benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

24-10-101. Purpose.

The purpose of this chapter, which creates and establishes the Arkansas Local Police and Fire Retirement System, is to establish a benefit program for future police officers and fire fighters in Arkansas and to establish a statewide retirement system which will have the advantages of pooled administration while preserving local rights and local contribution rates.

History. Acts 1981, No. 364, § 1;
A.S.A. 1947, § 12-3801.

24-10-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Accumulated contributions" means the total of all amounts contributed by a member and standing to his or her credit in his or her individual account in the system, together with regular interest thereon;

(2) "Actuarial equivalent" means a benefit of equal reserve value, where "reserve" means the present value of all payments to be made on account of any benefit based upon such reasonable rates of interest and tables of experience as the system shall adopt from time to time;

(3)(A) "Actuary" means a qualified actuary with experience in retirement plan financing.

(B) Membership in the American Academy of Actuaries shall be sufficient for a person to be deemed a qualified actuary;

(4) "Age" means age on last birthday;

(5) "Annuity" means a monthly amount payable throughout the life of a person or for a temporary period;

(6) "Beneficiary" means any person who is receiving or designated by a member to receive a plan benefit, except a retirant;

(7) "Benefit program" means a schedule of benefits or benefit formulas from which the amounts of benefits can be determined;

(8) "Board" means the board of trustees of the system;

(9) "Covered employment" means employment as a police officer or fire fighter in a position covered by the system;

(10)(A) "Credited service" means covered employment which is creditable as service by the system and is the total of paid service and volunteer service.

(B) Credited service cannot be both paid service and volunteer service for the same period of time;

(11)(A) "Dependent child" means a child until his or her death, his or her marriage, or his or her attainment of age eighteen (18), whichever occurs first.

(B)(i) The age eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university, but in no event beyond his or her attainment of age twenty-three (23).

(ii) The age eighteen (18) maximum shall also be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction, or by the board, for as long as the incompetency exists;

(12) "Effective date" of the system means July 1, 1981;

(13)(A) "Employee" means any person regularly employed by a political subdivision who receives remuneration from the political subdivision for personal services rendered as a police officer or fire fighter.

(B) The term “employee” shall not include any person who acts for the political subdivision under contract or is paid on a fee basis;

(14) “Employer” means any political subdivision which has its eligible employees covered by the system;

(15)(A) “Final average pay” means the monthly average of the pays to an employee during the period of thirty-six (36) consecutive months of credited service producing the highest monthly average, but the period must be contained within the period of one hundred twenty (120) consecutive months of credited service immediately preceding his or her separation from covered employment.

(B) Should a member have fewer than thirty-six (36) months of credited service, “final average pay” means the monthly average of pays to him or her during his or her total months of credited service.

(C) In any event, pays usable in determining final average pay shall be limited by the following test, considering the final average pay period in four (4) contiguous segments: Pays during any one (1) annual segment shall be usable only to the extent that the pays do not exceed thirty-one percent (31%) of the total pays in the final average pay period, but if the final average pay period is less than four (4) full years, the maximum usable thirty-one percent (31%) shall be increased proportionately;

(16)(A) “Fire fighter” means any regular or permanent employee of a fire department of a political subdivision, including a probationary fire fighter.

(B) The term “fire fighter” shall not include any civilian employee of a fire department or any person temporarily employed as a fire fighter during an emergency;

(17) “General Assembly” means the General Assembly of the state;

(18)(A) “Inflation index” means the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, as determined by the United States Department of Labor and in effect January 1, 1981.

(B) Should the inflation index be restructured subsequent to 1980 in a manner materially changing its character, the board, after receiving the advice of its actuary, shall change the application of the inflation index so that, as far as is practicable, the 1980 intent of the use of the inflation index shall be continued;

(19) “Joint Committee on Public Retirement” means the Joint Committee on Public Retirement and Social Security Programs created by §§ 10-3-701 — 10-3-703, or any successor committee;

(20) “Member” means any police officer or fire fighter included in the membership of the system;

(21) “Normal retirement age” means the younger of the following ages:

(A) Age fifty-five (55) if the member has at least twenty (20) years of credited service;

(B) Age sixty (60) if the member has fewer than twenty (20) years of credited service; or

(C) Any age if the member has twenty-eight (28) or more years of credited service;

(22) "Operative date" of the system means January 1, 1983;

(23) "Paid service" is covered employment which is half-time employment or more and which becomes credited service. For a calendar month in 1981 to become paid service, the police officer or fire fighter must be paid at least five hundred dollars (\$500) for that month's personal services as police officer or fire fighter. For any calendar year after 1981, the five hundred dollars (\$500) monthly minimum shall be increased by any percentage increase in the inflation index for the period from October 1980 to the October immediately preceding the calendar year;

(24)(A) "Pay" means the recurring remuneration paid an employee for personal services rendered by the employee in a position covered by the system.

(B) Should a portion of an employee's remuneration be paid him or her other than in cash, the cash value of the remuneration shall be established by the system, in an amount not to exceed the amount the employee is required to report for federal income tax purposes.

(C) In determining pay, no consideration shall be given to:

(i) Special single-sum payments paid by an employer;

(ii) Employer contributions to any employee benefit plan; or

(iii) Any other unusual or nonrecurring remuneration;

(25)(A) "Police officer" means any regular or permanent employee of a police department of a political subdivision, including a probationary police officer.

(B) The term "police officer" shall not include any civilian employee of a police department or any person temporarily employed as a police officer during an emergency;

(26) "Political subdivision" means:

(A) Incorporated towns;

(B) Cities of the first class;

(C) Cities of the second class;

(D) Counties;

(E) Fire protection districts which maintain standards established by the board;

(F) Rural fire protection corporations; and

(G) Suburban improvement districts.

(27) "Regular interest" means such reasonable rate or rates per annum, compounded annually, as the board shall adopt;

(28) "Relief fund" means:

(A) Any police officers' pension and relief fund created by state law, applicable to police officers, and covering one (1) or more persons on December 31, 1982; or

(B) Any fire fighters' relief and pension fund created by state law, applicable to fire fighters, and covering one (1) or more persons on December 31, 1982;

(29) "Retirant" means a former member receiving a plan annuity by reason of having been a member;

(30) "Social security" means the federal social security old age, survivors, and disability insurance program, as amended;

(31)(A) "Social security primary benefit" means a member's benefit for age or for disability determined and payable under social security, determined as of the date of his or her separation from covered employment.

(B) Should a member so separate before being eligible for a social security primary benefit with monthly payments commencing immediately, the amount of his or her social security primary benefit shall be equal to the social security disability benefit he or she would receive if he or she were disabled at the time of separation;

(32) "State" means the State of Arkansas and includes all of its duly constituted agencies;

(33) "System" means the Arkansas Local Police and Fire Retirement System created by this chapter; and

(34) "Volunteer service" is covered employment which becomes credited service and cannot be classified as paid service.

History. Acts 1981, No. 364, § 2; 1983, No. 645, § 1; 1985, No. 160, § 1; A.S.A. 1947, § 12-3802; Acts 1997, No. 769, § 1; 1999, No. 715, § 1; 1999, No. 863, § 1; 1999, No. 865, § 5; 1999, No. 955, § 1.

Amendments. The 1997 amendment added (21)(C).

The 1999 amendment by No. 715 added (26)(G).

The 1999 amendment by No. 863 substituted "thirty-six (36)" for "sixty (60)" in (15)(A) and (15)(B); in (15)(C), twice sub-

stituted "four (4)" for "five (5)", and twice substituted "thirty-one percent (31%)" for "twenty-five percent (25%)."

The 1999 amendment by No. 865, in (26), deleted "nonprofit corporations formed for fire protection purposes, and" preceding "fire protection districts," added the subdivision designations, and added (26)(F).

The 1999 amendment by No. 955 substituted "twenty-eight (28)" for "thirty (30)" in (21)(C).

24-10-103. Tax exemption.

(a) The benefits payable by, and the assets of, the Arkansas Local Police and Fire Retirement System are exempt from taxes by the state or any political subdivision or agency thereof.

(b) The system shall be treated in the same manner as the federal Civil Service Retirement System for purposes of federal taxation.

History. Acts 1981, No. 364, § 7; A.S.A. 1947, § 12-3808.

24-10-104. Correction of errors.

Should any change or error in records result in any person receiving from the Arkansas Local Police and Fire Retirement System more or less than he or she would have been entitled to receive had the records been correct, the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall correct the error and, as far as is practicable, shall adjust the payment of the benefit in such manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

History. Acts 1981, No. 364, § 7;
A.S.A. 1947, § 12-3808.

24-10-105. Penalty.

Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record or records in any attempt to defraud the Arkansas Local Police and Fire Retirement System shall be guilty of a criminal act and upon conviction thereof shall be punished accordingly.

History. Acts 1981, No. 364, § 7;
A.S.A. 1947, § 12-3808.

24-10-106. Limitation on benefit enhancement of Acts 1997, No. 769.

No benefit enhancement provided for by § 24-10-102(21) shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by § 24-10-102(21) shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

History. Acts 1997, No. 769, § 2.

A.C.R.C. Notes. References to "this chapter" in §§ 24-10-101 to 24-10-105 and

24-10-201 to 24-10-616 may not apply to this section which was enacted subsequently.

SUBCHAPTER 2 — BOARD OF TRUSTEES

SECTION.

24-10-201. Members and terms.
24-10-202. Vacancies.
24-10-203. Proceedings.

SECTION.

24-10-204. Employees.
24-10-205. Records and reports.

Effective Dates. Acts 1985, No. 547, § 3: Mar. 25, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that current law providing for the election of member trustees is unclear and cumbersome, and that this Act is necessary to ensure the timely replacement of representatives of the covered members of the System. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 152, § 7: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that confusion exists regarding whether bank trust officers may serve as investment advisers to local police and fire pension funds; that it was never the intent that bank trust officers not be authorized to so act; that this Act clarifies the law to specifically authorize bank trust officers to serve as investment advisers to the local police and fire pension funds; and that this Act should be given effect immediately in order to eliminate the confusion. Therefore, an emergency is hereby de-

clared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995;

and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

24-10-201. Members and terms.

(a) The general administration and the responsibility for the proper operation of the Arkansas Local Police and Fire Retirement System and for making effective the provisions of this chapter are vested in a board of trustees of five (5) persons as follows:

(1) One (1) person to be appointed member trustee by the Governor from two (2) lists of persons submitted to him or her, one (1) list from the Arkansas Fire Fighters Association, and one (1) list from the Arkansas Council of Professional Fire Fighters;

(2) One (1) person to be appointed member trustee by the Governor from two (2) lists of persons submitted to him or her, one (1) list from the Arkansas Municipal Police Association, and one (1) list from the Fraternal Order of Police;

(3) Two (2) persons to be appointed employer trustees by the Governor from a list of persons submitted to him or her by the Arkansas Municipal League; and

(4) One (1) person who is not a member, retirant, or beneficiary of the system and who is not a member of the governing body of any political subdivision to be appointed trustee by the Governor from a list of persons submitted to him or her by the Joint Committee on Public Retirement and Social Security Programs.

(b)(1) The normal term of office for a trustee shall be four (4) years from January 1 next following his or her election or appointment, as the case may be.

(2) Each trustee shall continue to serve as trustee until a successor is appointed and has qualified.

(c) Trustees elected or appointed as member trustees shall be members of the system, but not more than one (1) member trustee shall be employed by any one (1) employer, not more than one (1) member trustee shall be a police officer, and not more than one (1) member trustee shall be a fire fighter.

(d) Trustees appointed as employer trustees shall be elected or appointed officials of employers with management experience and shall

not be members of the system, but not more than one (1) employer trustee shall be from any one (1) employer.

(e) Whenever the Governor is to appoint a trustee, the list of persons submitted to him or her shall consist of the names of two (2) persons.

History. Acts 1981, No. 364, § 7; 1985, No. 547, § 1; A.S.A. 1947, § 12-3807.

Publisher's Notes. Acts 1985, No. 547, § 1, provided, in part, that the first two member trustees should be appointed by the Governor from a list of persons submitted by the Joint Committee on Public Retirement, one for a term expiring January 1, 1986 and one for a term expiring January 1, 1988. At the first meeting of the board, the first two member trustees

were to determine by lot who would serve the term expiring in 1986 and who would serve the term expiring in 1988. The Arkansas Municipal League was authorized to nominate persons for the two employer trustee positions, one for a term expiring January 1, 1985 and one for a term expiring January 1, 1987. The first citizen trustee was to be appointed for a term expiring January 1, 1987.

24-10-202. Vacancies.

(a) In the event any member trustee ceases to be a member of the Arkansas Local Police and Fire Retirement System, or if any employer trustee ceases to be an appointed or elected official of an employer or becomes a member of the system, or if the citizen trustee becomes a member of the system or an elected or appointed official of an employer, or if any trustee fails to attend three (3) consecutive meetings of the Board of Trustees of the Arkansas Local Police and Fire Retirement System, unless in each case excused for cause by the remaining trustees attending the meetings, he or she shall be considered as having resigned from the board, and the board by resolution shall declare his or her office of trustee vacated.

(b) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(c) From the time a vacancy in the office of trustee occurs and the board has begun the steps to see that the vacancy will be filled, and before the time the vacancy is filled, the trustees in office by majority vote may elect a person to fill temporarily the vacancy for the interim period but in no event for a period longer than one (1) year.

History. Acts 1981, No. 364, § 7; A.S.A. 1947, § 12-3807.

24-10-203. Proceedings.

(a)(1)(A) Each trustee shall be entitled to one (1) vote on the Board of Trustees of the Arkansas Local Police and Fire Retirement System.

(B) Three (3) votes shall be necessary for a decision by the trustees at any meeting of the board.

(2) Three (3) trustees, of whom at least one (1) shall be a member trustee and at least one (1) shall be an employer trustee, shall constitute a quorum at any meeting of the board.

(3) Unless otherwise expressly provided in this section, a meeting need not be called or held to make any decision on a matter before the board. Each member must be sent, by the Executive Director of the Arkansas Local Police and Fire Retirement System, a copy of the matter to be decided with full information from the files of the board. The concurring decisions of three (3) trustees may decide the issue by signing a document declaring their decision and sending the written instrument to the executive director, but only if no other trustee shall send a dissenting decision to the executive director within fifteen (15) days after the document and information were mailed to him or her. If any trustee is not in agreement with the three (3) trustees, the matter is to be passed on at a regular board meeting or a special meeting called for that purpose.

(4) Meetings of the board may be called by the chair or by a majority of the members in a manner established by the board.

(b)(1) The board shall serve as trustees without compensation for their services as such.

(2) However, each trustee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c) Subject to the limitations of this chapter, the board shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the system.

(d) The board shall elect one (1) of its members as chair and one (1) of its members as vice chair.

History. Acts 1981, No. 364, § 7; A.S.A. 1947, § 12-3807; Acts 1995, No. 514, § 3; 1997, No. 250, § 233.

Cross References. Mileage reimbursement, § 25-16-901 et seq.

Amendments. The 1997 amendment rewrote (b)(2).

CASE NOTES

Cited: Rothbaum v. Arkansas Local Police & Fire Ret. Sys., 346 Ark. 171, 55 S.W.3d 760 (2001).

24-10-204. Employees.

(a)(1) The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall employ an executive director, not one of its number, for at least three (3) years, who shall be the executive officer of the board.

(2) Other employees of the board shall be chosen only upon the recommendation of the Executive Director of the Arkansas Local Police and Fire Retirement System.

(b) After the operative date, the board shall appoint an actuary or a firm of actuaries to be a technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary shall perform such duties as are required of him or her under this chapter and as are from time to time required by the board.

(c) The board shall appoint an attorney at law, or firm of attorneys at law, to be the legal advisor of the board and to represent the board in all legal proceedings.

(d) The board shall appoint an investment advisor, as defined in § 24-10-402.

(e)(1) The board shall arrange for annual audits of the records and accounts of the Arkansas Local Police and Fire Retirement System by a certified public accountant or by a firm of certified public accountants.

(2) The Division of Legislative Audit shall examine the audits at least once every three (3) years and report to the Joint Committee on Public Retirement and Social Security Programs, the Legislative Council, the Board of Trustees of the Arkansas Local Police and Fire Retirement System, the Arkansas Fire and Police Pension Review Board, and the Governor.

(f) The executive director shall be the appointing authority in the employment of such other professional and clerical employees and shall be responsible for the purchase of such equipment and supplies as are required for the proper operation of the system, subject to the approval of the board.

(g)(1) The pay of the persons engaged by the system shall be consistent with the pay plan of the state.

(2) All other expenses of the board necessary for the operation of the system shall be paid at such rates and in such amounts as the board shall approve.

History. Acts 1981, No. 364, § 7; 1983, No. 676, § 1; A.S.A. 1947, § 12-3807; Acts 1989, No. 152, § 1.

24-10-205. Records and reports.

(a)(1) After receiving the advice of its actuary, the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall from time to time adopt such mortality and other tables of experience, and rates of regular interest, as shall be necessary for the actuarial requirements of the Arkansas Local Police and Fire Retirement System.

(2) It shall require the Executive Director of the Arkansas Local Police and Fire Retirement System to keep in convenient form such data as shall be necessary for actuarial investigations of the experiences of the system and such data as shall be necessary for the annual actuarial valuations of the system.

(b) The board shall keep a record of its proceedings, which shall be open to public inspection.

(c) The board shall prepare annually and render to each employer a report showing the financial condition of the system. The report shall contain, but shall not be limited to:

- (1) A financial balance sheet;
- (2) A statement of income and disbursements;

(3) A detailed statement of investments acquired and disposed of during the year, including a composite rate of return on the investments;

(4) A summary of the results of the last actuarial valuation of the system; and

(5) Such other data as the board shall deem necessary or desirable for a proper understanding of the condition of the system.

(d) The board shall determine and decide all questions of doubt raised by any provisions of this chapter.

(e) The headquarters of the system shall be located within twenty-five (25) miles of the State Capitol Building.

History. Acts 1981, No. 364, § 7;
A.S.A. 1947, § 12-3807.

SUBCHAPTER 3 — MEMBERSHIP

SECTION.

24-10-301. Generally.

24-10-302. Coverage by employer.

24-10-303. Rules and regulations governing participation.

SECTION.

24-10-304. Transfer of municipal police department officers from Arkansas Public Employees' Retirement System.

A.C.R.C. Notes. References to "this subchapter" in §§ 24-10-301 and 24-10-302 may not apply to § 24-10-303 which was enacted subsequently.

Effective Dates. Acts 1987, No. 357, § 7: Mar. 23, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is in the best interest of the public health, welfare and safety that members in the public safety category of the Public Employees Retirement System should be permitted to transfer to another employment protecting the public health and safety and that current retirement laws discourage said transfers. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1541, § 3: Apr. 12, 2001. Emergency clause provided: "It is found and determined by the General Assembly that certain municipal police departments have been members of the Public Employees' Retirement System for many years;

that in 1981 the Local Police and Fire Retirement System was created especially for retirement benefits for municipal police and fire departments; that effective July 1, 1997, the Public Employees' Retirement System ended special credited service for police officers; that the rigors of police work need to be recognized as special by a specialized retirement system; and that it is now necessary to allow for the transfer of those departments to the Local Police and Fire Retirement where that special service can be recognized. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-10-301. Generally.

(a) The membership of the Arkansas Local Police and Fire Retirement System shall include the following persons:

(1) If his or her employer had its fire fighters covered by a relief fund on the operative date, each person first employed as a fire fighter on or after the operative date shall become a member of this system and not be a member of the relief fund;

(2) If his or her employer had its police officers covered by a relief fund on the operative date, each person first employed as a police officer on or after the operative date shall become a member of this system and not be a member of the relief fund;

(3) If his or her employer did not have its fire fighters covered by a relief fund on the operative date, all persons employed as fire fighters on the date the employer covers fire fighters under this subchapter shall become members of the system as of that date, and each person first employed as a fire fighter thereafter shall become a member upon employment; and

(4) If his or her employer did not have its police officers covered by a relief fund on the operative date, all persons employed as police officers on the date the employer covers police officers under this subchapter shall become members of the system as of that date, and each person first employed as a police officer thereafter shall become a member upon employment.

(b) In any case of question as to the system membership status of any person, the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall decide the question.

(c)(1) When covering a person first employed in paid service as a fire fighter or police officer on or after July 1, 1985, the employer shall require an employment physical examination of the employee, under criteria established by the board.

(2) The employer shall submit a copy of the examination to the system within thirty (30) days of the date of hire.

History. Acts 1981, No. 364, § 3; 1985, 1987, No. 357, § 5; 1993, No. 1203, § 1; No. 118, § 1; A.S.A. 1947, § 12-3803; Acts 1995, No. 642, § 1.

24-10-302. Coverage by employer.

(a) Each political subdivision without a relief fund in effect on the operative date may elect, by a majority vote of its governing body, to become an employer and cover its employees under the Arkansas Local Police and Fire Retirement System, as follows:

(1)(A) The clerk or secretary of the political subdivision shall certify, in a manner and form acceptable to the Board of Trustees of the Arkansas Local Police and Fire Retirement System, the determination of the political subdivision to the board within ten (10) days from and after the vote of the governing body.

(B) The effective date of the political subdivision's coverage shall be the first day of the calendar month next following receipt by the board of the determination;

(2) An employer may cover its employees who are police officers or its employees who are fire fighters, or both groups.

(b) Each political subdivision with a relief fund in effect on the operative date shall become an employer on the operative date and cover its employees under the system, as follows:

(1) An employer with a relief fund covering police officers shall cover its future police officers; and

(2) An employer with a relief fund covering fire fighters shall cover its future fire fighters.

(c) After the effective date, a political subdivision shall not commence coverage of its employees who are police officers or fire fighters under another plan similar in purpose to this system, except social security.

(d)(1) In the event an employer has in effect for all or part of its employees a plan similar in purpose to this system, then by agreement with the board, after the board has received the advice of its technical advisors concerning the agreement, that employer may provide for coverage under this system of either part or all of the employee's employment previously covered or coverable by the other plan, but only if the coverage and resulting benefits under this chapter do not duplicate any benefits previously provided by the other plan.

(2) In providing for such coverage, an employer and the board shall pursue uniform policies and shall not discriminate in favor of or against any employee or group of employees.

(3) Should an employer cover, under the system, its employees who are covered by a relief fund benefit program, the system coverage means the administration of the relief fund and shall not change the relief fund benefit program.

(e) In the event an employee has service that is covered by, or is eligible to be covered by, or has resulted in benefit payments from, another retirement system which is supported by state funds or is authorized by the laws of the state, the coverage and benefits of the other retirement system shall not be forfeited or terminated because of other and separate service which is eligible for the system coverage, but only if the coverage under the other plan and the resulting benefits thereunder do not duplicate any benefits or service credit coverage provided by the system.

History. Acts 1981, No. 364, § 3; 1983, No. 655, § 1; 1985, No. 490, § 1; A.S.A. 1947, § 12-3803.

24-10-303. Rules and regulations governing participation.

The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall have the authority to promulgate such rules and

regulations as are necessary to provide for the participation of employers that are rural fire protection corporations authorized under the provisions of § 4-34-101 et seq. However, the board shall not admit or retain any employer whose participation in the Arkansas Local Police and Fire Retirement System would jeopardize the tax-qualified status of the plan under the Internal Revenue Code, or that would subject the plan to additional federal requirements, or to any other consequence that the board would determine to be detrimental to the system.

History. Acts 1999, No. 865, § 6.

A.C.R.C. Notes. References to "this subchapter" in §§ 24-10-301 and 24-10-302 may not apply to this section which was enacted subsequently.

U.S. Code. The Internal Revenue Code, referred to in this section, is codified as 26 U.S.C. § 1 et seq.

24-10-304. Transfer of municipal police department officers from Arkansas Public Employees' Retirement System.

(a) Any municipal police department whose employees were covered by the Arkansas Public Employees' Retirement System on July 1, 1997, is authorized to transfer those employees hired after July 1, 1997, to the Arkansas Local Police and Fire Retirement System by:

(1) Notifying the board of trustees of each of the retirement systems in writing, and accompanied by a resolution of the governing body of the municipality, of the intention to transfer the coverage of the qualifying officers; and

(2) Authorizing the Board of Trustees of the Arkansas Public Employees' Retirement System to transfer any sums of money paid into the Arkansas Public Employees' Retirement System for the benefit of the officers of the particular department to the Arkansas Local Police and Fire Retirement System for those officers transferred.

(b) If any municipal police department elects to transfer retirement benefits under this section, all employees hired after July 1, 1997, must be enrolled in the Arkansas Local Police and Fire Retirement System.

History. Acts 2001, No. 1541, § 1.

SUBCHAPTER 4 — FUNDS — CONTRIBUTIONS — MANAGEMENT OF ASSETS

SECTION.

24-10-401. Financial objectives and actuarial valuations.

24-10-402. Investments.

24-10-403. Asset accounts.

24-10-404. Members' deposit account — Contributions.

24-10-405. Employer accumulation account — Contributions.

24-10-406. Retirement reserve account.

SECTION.

24-10-407. Income-expense account.

24-10-408. State contributions — System administrative expenses.

24-10-409. Proration of state revenues between political subdivision and its relief fund.

24-10-410. Delinquent payments.

24-10-411. Transfer of subsidy account funds.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-10-401 — 24-10-410 may not apply to § 24-10-411 which was enacted subsequently.

Cross References. Fire protection funding for planned community property owners association, § 24-11-811.

Local police and fire pension and relief funds, § 24-11-101 et seq.

Effective Dates. Acts 1985, No. 755, § 3: Apr. 3, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that current law provides for distribution of insurance turnback for the support of individual fire and police pension and relief funds, and for fire fighters and police officers covered under the Arkansas Local Police and Fire Retirement System, but is unclear about the distribution of these moneys to political subdivisions in which all fire and/or police employees are covered under the statewide system, and that this Act is necessary to clarify the intent of existing law providing for the support of these retirement programs. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1989, No. 152, § 7: Feb. 21, 1989. Emergency clause provided: “It is hereby found and determined by the General Assembly that confusion exists regarding whether bank trust officers may serve as

investment advisers to local police and fire pension funds; that it was never the intent that bank trust officers not be authorized to so act; that this Act clarifies the law to specifically authorize bank trust officers to serve as investment advisers to the local police and fire pension funds; and that this Act should be given effect immediately in order to eliminate the confusion. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 1130, § 6: Apr. 13, 1993. Emergency clause provided: “It is hereby found and determined by the General Assembly that the current law relating to nonuniformed municipal employees pension and relief funds does not grant the board of trustees adequate latitude in the employment of an investment counselor and in investing the funds; that this act gives the boards of trustees of some such pension and relief funds the needed additional authority and should be given effect immediately to enable the boards of trustees of such funds to assure that such funds are as productive as possible. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

24-10-401. Financial objectives and actuarial valuations.

(a)(1) The general financial objective of the Arkansas Local Police and Fire Retirement System and of each employer shall be to establish and receive contributions, expressed as percents of active employee pays, which will remain approximately level from year to year and which will not have to be increased for future generations of citizens.

(2) More specifically, contributions received each year shall be sufficient both to fully cover the costs of benefit commitments being made to employees for their service being rendered in each year and to make a level payment which, if paid annually over a reasonable period of future years, will fully cover the unfunded costs of benefit commitments for service previously rendered.

(b) The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall cause an actuarial valuation of each employer's participation to be made at least biennially, and preferably annu-

ally, to determine how well the system is meeting the objectives set forth in subsection (a) of this section.

History. Acts 1981, No. 364, § 6;
A.S.A. 1947, § 12-3806.

24-10-402. Investments.

(a)(1) The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall be the trustee of the funds of the Arkansas Local Police and Fire Retirement System, subject to the other provisions of this subchapter.

(2) The funds of the system shall be invested and reinvested, and the funds of local fire and police pension and relief funds, as created by §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, with assets in excess of five hundred thousand dollars (\$500,000) may also be invested in accordance with the following procedure:

(A)(i) From time to time, the investment advisor under contract to the board shall formulate the policy to be followed in future investment activity, and he or she shall promptly furnish the policy to the board in writing each time he or she changes the policy.

(ii) "Investment advisor" means any person who for compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who for compensation issues or promulgates analyses or reports concerning securities, and who is required to be registered as such with the State Securities Department. Furthermore, the term "investment advisor" includes officers of the bank trust departments even though the officers are not required to be registered with the State Securities Department;

(B) The investment advisor shall have full power to purchase, sell, assign, transfer, or dispose of any of the moneys or investments of the system pursuant to the provisions of this subchapter and in accordance with the current investment policy filed with the board;

(C) At least semiannually, the investment advisor shall file with the board a written report setting forth, for the period since its last report, all investments purchased and sold, all receipts and disbursements, and any other transactions concerning system moneys;

(D) At each regular meeting, the board shall examine each written report received from the investment advisor since the last regular meeting;

(E) Anything in this section to the contrary notwithstanding, from time to time the board may direct a specific investment activity and shall be fully responsible for the direction;

(F) Anything in this section to the contrary notwithstanding, investment activity shall be subject to the terms, conditions, limita-

tions, and restrictions imposed by law upon state public employee retirement plans in the making and disposing of their investments;

(G) Anything in this section to the contrary notwithstanding, until the assets of the system amount to at least five million dollars (\$5,000,000), the funds of the system not in the checking account may be invested in shares of no-load mutual funds, each of which shall have the following characteristics:

(i) The mutual fund shall be an open-end diversified investment company registered under the Investment Company Act of 1940, as amended;

(ii) The management company of the investment company shall have been in operation for at least ten (10) years and shall have assets under management of more than one hundred million dollars (\$100,000,000); and

(iii) There shall be no sales charge for purchasing shares of the fund and no redemption charge for selling the shares; and

(H) The funds of local fire and police pension and relief funds, with assets not in excess of five hundred thousand dollars (\$500,000), may be invested pursuant to the supervision and management of the board of trustees of the system in the manner provided in this section. To the extent that such local funds are managed by the board of trustees, they may be commingled with other such funds which adopt the same investment objectives.

(b) Except as to the rights of a member, retirant, or beneficiary, no trustee and no officer or employee of the board shall have any direct or indirect interest in the gains or profits of any investment made by the board; nor shall any of them, directly or indirectly, for himself or herself or as an agent, in any manner use the assets of the system except to make such current and necessary payments as are authorized by the board; nor shall any of them become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board.

(c) All assets of the system shall be held for the sole purpose of paying benefits and making disbursements in accordance with the provisions of this chapter and shall be used for no other purpose whatsoever.

History. Acts 1981, No. 364, § 6; 1985, No. 6, § 1; 1985, No. 16, § 1; A.S.A. 1947, § 12-3806; Acts 1987, No. 13, § 1; 1989, No. 152, § 2; 1995, No. 615, § 1.

U.S. Code. The federal Investment Company Act of 1940, referred to in this section, is codified as 15 U.S.C. § 80a-1 et seq.

Cross References. Investment of local pension and trust funds, § 24-9-201 et seq.

Public employee retirement plans generally, investments, § 24-2-201 et seq.

24-10-403. Asset accounts.

All the assets of the Arkansas Local Police and Fire Retirement System shall be held in four (4) accounts, namely:

- (1) The members' deposit account;
- (2) The employer accumulation account;
- (3) The retirement reserve account; and
- (4) The income-expense account.

History. Acts 1981, No. 364, § 6;
A.S.A. 1947, § 12-3806.

24-10-404. Members' deposit account — Contributions.

(a) The members' deposit account, as created by § 24-10-403, shall be the account in which shall be accumulated the contributions made by members to the Arkansas Local Police and Fire Retirement System and from which shall be made transfers and refunds of members' contributions as provided in this chapter.

(b)(1) If a member's covered employment is not also covered by social security, or if his or her covered employment is also covered by social security and his or her political subdivision has elected Benefit Program 2, as provided in § 24-10-602, and if he or she is receiving pays resulting in paid service credit, his or her contributions to the system shall be six percent (6%) of his or her pays.

(2) The contributions shall be made notwithstanding that the minimum salary or wages provided by law for any member shall thereby be changed.

(3) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(4) Payment of a member's pay less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by him or her to a political subdivision, except as to benefits provided by this system.

(c)(1) The officers responsible for making up the payrolls for each political subdivision shall cause the contributions provided for in this section to be deducted from the pay of each member in the employ of the political subdivision, on each and every payroll, to the date his or her membership terminates.

(2)(A) When deducted, each of the amounts shall be paid by the political subdivision to the system.

(B) These payments shall be made in such manner and form, and in such frequency, and shall be accompanied by such supporting data, as the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall prescribe from time to time.

(3) When paid to the system, each of the amounts shall be credited to the member's individual account in the members' deposit account.

(d)(1) In addition to the contributions deducted from the pays of a member, as provided in this section, a member shall deposit in the members' deposit account by a single contribution or by an increased rate of contributions, as approved by the board, the amounts he or she may have withdrawn therefrom and not repaid thereto, together with regular interest from the date of withdrawal to the date of repayment.

(2) In no case shall a member be given credit for service rendered before the date he or she withdrew his or her accumulated contributions until he or she returns to the members' deposit account all amounts due the account by him or her.

(e) If an annuity becomes payable from the retirement reserve account to or on behalf of a member, his or her accumulated contributions shall be transferred to the retirement reserve account.

History. Acts 1981, No. 364, § 6;
A.S.A. 1947, § 12-3806; Acts 1995, No.
474, § 2.

24-10-405. Employer accumulation account — Contributions.

(a) The employer accumulation account, as created by this section, shall be the account in which shall be accumulated the contributions made by employers for annuities and from which shall be made transfers, as provided in this chapter.

(b) When paid to the Arkansas Local Police and Fire Retirement System, the employer contributions provided for in this section shall be credited to the employer accumulation fund account of the employer making the contributions.

(c) When an annuity first becomes due and payable to or on behalf of a member, there shall be transferred to the retirement reserve account from his or her employer's account in the employer accumulation account the difference between the reserve for the annuity and the accumulated contributions standing to his or her credit in the members' deposit account at the time the annuity first becomes due and payable.

(d)(1) A separate account shall be maintained in the employer accumulation account for each employer.

(2) No employer shall be responsible for the employer accumulation account liabilities of another employer.

(e) Each employer's contributions to the system shall be the total of the contribution amounts provided for in subsections (f) and (g) of this section, and the contributions shall be subject to the provisions of subsection (h) of this section.

(f)(1) For each employer, the actuary shall annually compute the rate of contributions, expressed as a percent of active member pays, which will cover the benefit costs of its employees participating in the system.

(2) The actuarial valuation determining the contribution rate shall be based upon such financial assumptions as shall be established by the Board of Trustees of the Arkansas Local Police and Fire Retirement System after consulting with the actuary.

(3) The board shall annually certify to the governing body of each employer the contribution rate so determined, and each employer shall pay contributions based on that rate to the system during the employer's next fiscal year, which begins six (6) months or more after the date of the board certification.

(4) The payments shall be made in such manner and form, and in such frequency, and shall be accompanied by such supporting data, as the board shall determine.

(5) When received, the payments shall be credited to the employer's account in the employer accumulation account.

(g) Each employer shall provide its share, as determined by the board, of the administrative expenses of the system and shall pay that amount to the system to be credited to the income-expense account.

(h) The employer's total contributions to the system, expressed as a percent of active member pays, in any employer fiscal year beginning with the second fiscal year that the political subdivision is an employer, shall not exceed its total contributions for the immediately preceding fiscal year, expressed as a percent of active member pays, by more than one percent (1%).

History. Acts 1981, No. 364, § 6;
A.S.A. 1947, § 12-3806.

24-10-406. Retirement reserve account.

The retirement reserve account, as created by this section, shall be the fund into which shall be made transfers as provided in this chapter and from which shall be paid to retirants and beneficiaries the annuities provided by the Arkansas Local Police and Fire Retirement System.

History. Acts 1981, No. 364, § 6;
A.S.A. 1947, § 12-3806.

24-10-407. Income-expense account.

(a) The income-expense account, as created by this section, shall be the account to which shall be credited all investment income from invested assets of the Arkansas Local Police and Fire Retirement System, in which shall be accumulated the contributions made by employers for the administrative expenses of the system, from which shall be made annual transfers of regular interest to the other accounts of the system, and from which shall be paid all the expenses of the system necessary for the administration and operation of the system.

(b) When paid to the system, the employer contributions provided for in § 24-10-405(g) shall be credited to the income-expense account.

(c) The Board of Trustees of the Arkansas Local Police and Fire Retirement System may accept gifts and bequests, which shall be credited to the income-expense account, along with all other moneys received by the system the disposition of which is not specifically provided for in this chapter.

(d)(1) At the end of each system fiscal year, the board shall credit each member's individual account in the members' deposit account with regular interest on the average balance in the account for the fiscal year.

(2) At the end of each system fiscal year, the board shall credit to each account in the employer accumulation account regular interest on the average balance in the account for the fiscal year and similarly shall credit regular interest to the retirement reserve account.

(3) The regular interest shall be transferred from the income-expense account.

(e) Whenever the board determines that the balance in the income-expense account is more than sufficient to cover the current charges to the account, the board by resolution may provide for contingency reserves, or for the transfer of the excess, or portions thereof, to cover the needs of the other accounts of the system.

History. Acts 1981, No. 364, § 6;
A.S.A. 1947, § 12-3806.

24-10-408. State contributions — System administrative expenses.

(a) Subject to the provisions of this chapter, the state shall not contribute to finance the Arkansas Local Police and Fire Retirement System, except those amounts which the political subdivision may receive under laws providing for a general apportionment of political subdivision moneys throughout the state.

(b) The system administrative expenses provided by employer contributions and by system investment return shall not exceed a total of one-half of one percent (0.5%) of active member pays plus one percent (1%) of system assets.

(c) Because the system is covering future hires and not present employees, it will be a few years until the system has grown enough that the administrative expense maximum specified in subsection (b) of this section will cover all system administrative expenses. Until the inevitable growth has occurred, the portion of system administrative expenses not covered by that maximum amount shall be paid from the revenues derived from the premium taxes levied on foreign insurers by § 23-60-101 et seq. or any other funds designated for support of fire fighters' pension funds and police officers' pension funds in political subdivisions.

History. Acts 1981, No. 364, § 6;
A.S.A. 1947, § 12-3806.

24-10-409. Proration of state revenues between political subdivision and its relief fund.

(a) For each political subdivision with a relief fund in effect, the relief fund has been receiving revenues from the state derived from the taxes levied on foreign and domestic insurers by § 23-60-101 et seq., and §§ 24-11-301 — 24-11-303, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-816, and 24-11-818 — 24-11-821, 26-57-601 —

26-57-605, and 26-57-607 or any other state funds designated for support of fire and police retirement programs in political subdivisions.

(b)(1) Those state revenues shall be prorated between the relief fund and the political subdivision, based upon the total number of members, active and retired, and beneficiaries covered by the relief fund and by the Arkansas Local Police and Fire Retirement System.

(2) In the case of multiple beneficiaries of a single deceased member, those individuals shall be counted as one (1) for purposes of this section.

(c) If there is a mixture of employees acquiring paid service and employees acquiring volunteer service, one (1) paid service employee shall be equal to five (5) volunteer service employees for prorating purposes.

(d) Each political subdivision without a relief fund in effect July 1, 1981, which subsequently covers its fire or police department under the system shall also receive insurance revenues.

(e) All moneys so received by the political subdivisions shall be applied to the employer contribution required to support this system. However, if the governing body of any political subdivision determines that the required employer contribution is less than the amount of moneys so received during the year, the governing body may transfer any or all of the excess moneys to their police pension funds or fire pension funds, or both, in whatever amount deemed appropriate.

History. Acts 1981, No. 364, § 6; 1985, No. 755, § 1; A.S.A. 1947, § 12-3806; Acts 1989, No. 459, § 1; 1989, No. 587, § 1.

24-10-410. Delinquent payments.

(a) If any political subdivision fails to make any payment due the Arkansas Local Police and Fire Retirement System for a period of ten (10) days after the payment is due, the political subdivision shall become delinquent, and the delinquency shall be certified by the Board of Trustees of the Arkansas Local Police and Fire Retirement System to the Treasurer of State.

(b) Until the delinquency, together with regular interest, is satisfied, the Treasurer of State is authorized and directed to withhold all moneys due the political subdivision by the state.

History. Acts 1981, No. 364, § 6; A.S.A. 1947, § 12-3806; Acts 1987, No. 271, § 1.

24-10-411. Transfer of subsidy account funds.

Any city or town whose local police pension and relief fund or firemen's relief and pension fund has a balance, no participants, and an excess in its local Arkansas Local Police and Fire Retirement System subsidy account can transfer money left in the subsidy account to the city or town general fund for capital improvements.

History. Acts 1993, No. 1130, § 2.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-6 may not apply to this section which was enacted subsequently.

References to “this subchapter” in §§ 24-10-401 — 24-10-410 may not apply to this section which was enacted subsequently.

SUBCHAPTER 5 — CREDITED SERVICE

SECTION.

- 24-10-501. Paid and volunteer service.
- 24-10-502. Military service.
- 24-10-503. Disability.
- 24-10-504. Forfeiture and restoration.
- 24-10-505. Public service with other Arkansas systems.
- 24-10-506. Other local police and fire service.

SECTION.

- 24-10-507. Reciprocal system.
- 24-10-508. Service credit for chiefs.
- 24-10-509. Service credit not years of service.
- 24-10-510. Service credit for former military personnel.

Effective Dates. Acts 1987, No. 357, § 7: Mar. 23, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that it is in the best interest of the public health, welfare and safety that members in the public safety category of the Public Employees Retirement System should be permitted to transfer to another employment protecting the public health and safety and that current retirement laws discourage said transfers. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 485, § 12: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that public safety members for the Public Employees’ Retirement System earn credit at one and one-half times the normal rate of service credit; that the dollar cost to the System of this service credit is too expensive and is escalating with the addition of other groups of employees as public safety members; and that it is necessary to restrain the future use and costs to the System of this service credit and to implement this act at the beginning of the States’ fiscal year. Therefore, in order to reduce the financial burden on the Public Employees Retirement System, an emergency is hereby declared to exist, and this act being necessary for

the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997.”

Acts 1997, No. 1352, § 5: Apr. 11, 1997. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the present law pertaining to the purchase of credited service in the Local Police and Fire Retirement System by members who have prior service with a local government covered by a municipal police or fireman’s pension fund is being misinterpreted; that such misinterpretation is resulting in an overcharge to members for the purchase of that prior service; that this act clarifies that law; that until this act goes into effect confusion will continue and persons seeking to purchase the former service will continue to be overcharged; and therefore this act should go into effect as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1999, No. 883, § 6: Mar. 29, 1999. The emergency clause provided: “It is found and determined by the General As-

sembly that members of the Arkansas Local Police and Fire Retirement System should be entitled to purchase credited service for military service; that this act corrects an inequity in the retirement system and should be given immediate effect. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be-

come effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-10-501. Paid and volunteer service.

(a)(1) The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall fix and determine by rules and regulations the number of years and months of paid service to be credited to each member for his or her employment as an employee.

(2) In no case shall one (1) month of paid service credit be credited for any one (1) calendar month after the operative date for which an employee's pay is less than the minimum amount specified in this chapter, nor shall more than one (1) year of service be credited to any member for all covered employment rendered by him or her in any one (1) calendar year, unless the service credit is volunteer service credited under another employer as provided for in subsection (b) of this section.

(b)(1) Each employer shall regularly report to the board the calendar months of covered employment by each of its members which the employer wishes to be credited to the member as volunteer service.

(2) The board shall credit the member with the volunteer service, but in no case shall one (1) month of volunteer service be credited for any one (1) calendar month for which a month of paid service can be granted by the same employer, nor shall more than one (1) year of service be credited for all covered employment rendered by him or her in any one (1) calendar year with the same employer.

(3) Beginning January 1, 1999, the board may credit a member both with volunteer service and with paid service when the member earns the service credit simultaneously under different employers, except that he or she shall be limited to earning volunteer service with only one (1) covered employer at a time.

(c)(1) Not later than one (1) year from and after the date an employer covers its employees and before the retirement of a member included in the employees so covered, the employer shall certify to the board the periods of prior employment of each of its members to be considered for credit as paid service and for credit as volunteer service.

(2) No prior employment shall be so certified by an employer for any member unless he or she was employed by the employer within the one-year period immediately preceding the date an employer covers its employees and unless he or she is continuously employed by the employer:

- (A) From and after that date for one (1) year;
- (B) Until his or her death; or

(C) Until his or her total and permanent disability, whichever is earliest.

(d) Anything contained herein to the contrary notwithstanding, not later than June 30, 1995, an employer with employees who were not accruing service credit because of the age-related limitation on credited service in subsections (a) and (b) of this section in existence prior to July 28, 1995, and who are or would accrue service credit without such limitations on credited service, shall certify to the board the period or periods of previous employment of each such employee to be considered for credited service, and such previous employment shall be considered for credited service, provided the employee pays to the Arkansas Local Police and Fire Retirement System by December 31, 1995, the total member contributions he or she would have contributed to the system had such an age-related limitation not been in effect.

History. Acts 1981, No. 364, § 4; A.S.A. 1947, § 12-3804; Acts 1995, No. 642, § 2; 1999, No. 902, § 1.

Amendments. The 1999 amendment added the language beginning “unless the

service ... this section” to the end of (a)(2) and made minor punctuation changes; in (b)(2), inserted “by the same employer” and added “with the same employer”; and added (b)(3).

24-10-502. Military service.

(a) In the event of a member who, while an employee, enters the armed forces of the United States during any period of compulsory or voluntary military service, the armed service actually served by him or her shall be credited him or her as service under this subchapter. This shall be done only if he or she again becomes an employee within a period of one (1) year from and after honorable termination of the armed service actually served by him or her and if he or she returns to the Arkansas Local Police and Fire Retirement System the amount, if any, he or she may have withdrawn therefrom at the time he or she entered or while in the armed services, together with regular interest from the date of withdrawal to the date of repayment.

(b) In any case of doubt as to the period of armed service to be so credited a member, the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall have final power to determine the period.

(c) During the period of armed service and until his or her return as an employee, his or her contributions to the system shall be suspended, and any balance remaining to his or her credit in the system shall be accumulated at regular interest.

History. Acts 1981, No. 364, § 4; A.S.A. 1947, § 12-3804; Acts 1995, No. 641, § 1.

24-10-503. Disability.

(a) In the event a member in covered employment becomes totally physically or mentally incapacitated for his or her duty as an employee

as the natural and proximate result of a personal injury or disease which has arisen out of and in the course of his or her actual performance of duty as an employee, in the event the disability will probably not be permanent, and in the event periodic payments are payable under any workers' compensation or similar law on account of the same disability, then the disability time shall be credited as service under this subchapter upon written application filed with the Board of Trustees of the Arkansas Local Police and Fire Retirement System by or on behalf of the member.

(b) All determinations concerning the nature of the disability shall be made by the board.

(c) During the period of disability, his or her contributions to the Arkansas Local Police and Fire Retirement System shall be suspended, and any balance remaining to his or her credit in the system shall be accumulated at regular interest.

(d) Service credit granted under this section shall not be considered as credited service for the purpose of determining the member's final average pay.

(e) Should the person die while so disabled, he or she shall be considered a member in covered employment at the time of death.

History. Acts 1981, No. 364, § 4;
A.S.A. 1947, § 12-3804.

24-10-504. Forfeiture and restoration.

(a)(1) When a member is no longer employed by any employer in covered employment, he or she shall thereupon cease to be a member of the Arkansas Local Police and Fire Retirement System.

(2) Except as otherwise provided in this chapter, upon termination of his or her membership his or her credited service shall be forfeited by him or her.

(3) If the person is not a retirant and becomes reemployed by any employer in covered employment, he or she shall again become a member of the system.

(4) Upon his or her reemployment, his or her credited service last forfeited by him or her shall be restored to his or her credit, but only if he or she returns to the system the amount, if any, he or she withdrew therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(b) Upon a member's retirement, he or she shall thereupon cease to be a member. Except as otherwise provided in this chapter, he or she shall not again become a member of the system.

(c) Should a former member entitled to a vested annuity provided for in § 24-10-611 reenter covered employment before becoming a retirant, he or she shall thereupon cease to be entitled to a vested annuity, and he or she shall become a member, with his or her previous credited service reactivated and to be increased by the reemployment.

(d)(1) Upon the retirement of a member whose credited service results from employment with more than one (1) employer, the amount

of his or her annuity shall be based upon his or her total credited service in force at the time of his or her retirement and his or her final average pay during the total credited service.

(2) Each employer shall be responsible financially, within the provisions of this chapter, for the portion of the annuity based upon the service credited the member for employment with the employer, and the benefit program to be applied to each portion of credited service shall be the benefit program the employer had in effect at the time the member left the employment of the employer.

(e) If it is determined by the Board of Trustees of the Arkansas Local Police and Fire Retirement System at any time that continuous employment to the time of retirement will leave a member with less than the minimum number of years of credited service specified in § 24-10-604, then, upon that determination, the member shall cease to be a member.

History. Acts 1981, No. 364, § 4; A.S.A. 1947, § 12-3804; Acts 1999, No. 710, § 1.

Amendments. The 1999 amendment substituted “Upon his reemployment” for

“Should the reemployment or employment occur within a period of four (4) years from and after the date his membership last terminated” in (a)(4).

24-10-505. Public service with other Arkansas systems.

(a) For the purpose of this section, “related system” means any of four (4) retirement systems:

- (1) The Arkansas Local Police and Fire Retirement System;

(2) The Arkansas Public Employees’ Retirement System;

(3) The State Police Retirement System; or

(4) The Arkansas Teacher Retirement System.
- (b) The benefit payable by each related system shall be based upon:
- (1) The service credit with that system;

(2) The benefit program the related system had in effect at the time the member terminated service covered by the related system; and
- (3) The member’s service and pay covered by the related system while the service was being rendered.

(c) During any period that a person is employed in a position covered by a related system, that employee is ineligible to receive a refund of accumulated contributions from any related retirement system in which that employee has service credits and accumulated contributions standing in his or her account. Accumulated contributions may only be refunded when the employee terminates all employment covered by a related system and does not have, in the aggregate, sufficient years of credited service to be eligible for an age and service benefit from any of the related retirement systems.

History. Acts 1987, No. 357, § 4; 1993, No. 873, § 1; 1997, No. 485, § 8; 1997, No. 1024, § 1; 1997, No. 1011, § 1; 1999, No. 537, § 6; 1999, No. 1070, §§ 1-3.

A.C.R.C. Notes. Pursuant to § 1-2-

207, the repeal by Acts 1999, No. 537, of this section as amended by Acts 1997, No. 1011, was superseded by the amendment by Acts 1999, No. 1070.

Amendments. The 1997 amendment

by No. 485 added "or service as a public safety member with the Public Employees' Retirement System by a person whose employment occurred prior to July 1, 1997" in (a)(1).

The 1997 amendment by No. 1011 rewrote (a)(1); in (b) inserted "the person has reached age sixty-two (62) years of age or older and has total public safety service credit with all related systems of at least ten (10) years or if" and inserted "and for vesting."

The 1997 amendment by No. 1024, in (a)(2), substituted "four (4)" for "three (3)," added "or the Arkansas Teacher Retirement System" to the end, and made a related change.

The 1999 amendment by No. 537 repealed the version of this section as amended by Acts 1997, Nos. 485 and 1024.

The 1999 amendment by No. 1070 repealed the version of this section as amended by Acts 1997, Nos. 485 and 1024; substituted "Public service with other Arkansas systems" for "Public safety service with two other Arkansas systems" for the section catchline; deleted (a)(1); in (a)(2), substituted "four (4) retirement systems" for "three (3) retirement systems," and added "or the Teacher Retirement System"; deleted former (b); added present (c); and made minor punctuation and stylistic changes.

24-10-506. Other local police and fire service.

(a)(1) Any member of the Arkansas Local Police and Fire Retirement System who has:

(A) Employment service with a local government covered by a municipal police pension and relief fund, § 24-11-401 et seq., or a municipal firemen's pension and relief fund, § 24-11-801 et seq., shall be entitled to purchase credited service in the system equivalent to the amount of credited service he or she has with the local police or fire department up to five (5) years of credited service; or

(B) At least ten (10) years of service with the system and who has employment service with a local government covered by a municipal police pension and relief fund, § 24-11-401 et seq., or a municipal firemen's pension and relief fund, § 24-11-801 et seq., shall be entitled to purchase credited service in the system equivalent to the amount of credited service he or she has with the local police or fire department up to a maximum of fifteen (15) years of credited service.

(2) Provided, that the member contributes to the system an amount that is the actuarial equivalent of the value of the credited service to be purchased. This actuarial equivalent would be as of the time of the purchase of credited service and would be determined by the actuary to the system.

(b) The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall have the authority to make the final determination as to:

(1) The length of purchased service credit;

(2) The amount the member and employer contributions would have been for the years of credited service, which amount is to be paid into the system for the purchased service; and

(3) The amount of regular interest to be charged.

(c) Service credit purchased under this section may be used to determine the member's total credited service for the amount upon retirement and shall not be used to determine his or her final average pay for service under the system.

History. Acts 1993, No. 1084, § 1; The 1999 amendment added (a)(1)(B) 1997, No. 1352, § 1; 1999, No. 1455, § 1. and (a)(2); rewrote (a)(1)(A); and made
Amendments. The 1997 amendment stylistic changes.
rewrote (a) and (b).

24-10-507. Reciprocal system.

(a) The Arkansas Local Police and Fire Retirement System is a reciprocal system under the provisions of §§ 24-2-401 — 24-2-405.

(b) In establishing eligibility for a benefit from the Arkansas Local Police and Fire Retirement System, the credited service under all reciprocal systems shall be totaled and the total credited service shall be used in determining eligibility for a system benefit.

(c) In determining the amount of a benefit from this system, there shall be used only the credited service under this system and the benefit formula of this system.

(d) The final average compensation used shall be that of the reciprocal system which furnishes the highest final salary at the time of retirement.

(e) Wherever this system provides a benefit amount which is not dependent on length of credited service, the benefit amount shall be reduced to the proportion that system-credited service bears to total reciprocal system-credited service.

History. Acts 1999, No. 537, § 4.

24-10-508. Service credit for chiefs.

Any member of the Arkansas Local Police and Fire Retirement System who has at least five (5) years of service and who has service in the position of chief of an Arkansas law enforcement agency or fire department and who has been employed as a public safety or law enforcement officer in any agency not covered by the system shall receive credited service for that service.

History. Acts 1999, No. 716, § 1.

24-10-509. Service credit not years of service.

Service credit granted under § 24-10-508 shall not be considered as years of service for the purpose of benefit calculation.

History. Acts 1999, No. 716, § 2.

24-10-510. Service credit for former military personnel.

Any person who is or was a member of the Arkansas Local Police and Fire Retirement System and who was not receiving benefits under the system on January 1, 1999, shall be entitled to purchase credited service in the system for a period not to exceed two (2) years for service rendered by the member while on active duty in the armed forces of the

United States prior to the member's employment covered by the system, but only if:

(1) The person received an honorable discharge from the armed forces;

(2) The person is not receiving federal military service retirement pay based upon nineteen (19) or more years of active duty. However, disability federal retirement pay shall not disqualify a member from purchasing credit; and

(3) The person does the following: If he or she has participated in the system for at least sixteen (16) years or takes medical disability, he or she contributes to the member's deposit account a sum of money equal to the amount of the combined employee and employer contribution made by or on behalf of the member to the system based upon the contributions for the last month of the employee's sixteenth year of service, or if the employee has taken medical disability, the last month of the employee's last year of service prior to taking disability, multiplied by the number of months of military service the member is eligible for and desires to purchase under this section with interest thereon at the rate of six percent (6%) per annum from the date of eligibility to purchase the service to the date of purchase.

History. Acts 1999, No. 883, § 1.

SUBCHAPTER 6 — BENEFITS

SECTION.

- 24-10-601. Generally.
- 24-10-602. Annuity generally.
- 24-10-603. Annuity options.
- 24-10-604. Voluntary retirement.
- 24-10-605. Compulsory retirement.
- 24-10-606. Early retirement.
- 24-10-607. Disability retirement.
- 24-10-608. Death of member in paid service.
- 24-10-609. Death of member in volunteer service.
- 24-10-610. Limitations on death and disability annuities.
- 24-10-611. Termination of covered employment.

SECTION.

- 24-10-612. Redetermination of benefits.
- 24-10-613. Disposition of accumulated contributions.
- 24-10-614. Payment of reserve value.
- 24-10-615. Suspension of payments upon request.
- 24-10-616. Subjection of benefit rights to legal process.
- 24-10-617. Survivor health benefits.
- 24-10-618. Limitation on benefits granted by Acts 1997, No. 765.
- 24-10-619. Limitation on benefits granted by Acts 1997, No. 1136.

Cross References. Pension for retired policemen receiving less than one-half salary, § 24-11-424.

Effective Dates. Acts 1983, No. 654, § 3: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current provisions for death-in-service benefits under the Arkansas Local Police and Fire

Retirement System are unclear with respect to volunteer fire fighters; and that this Act is necessary to prescribe the benefits payable to their survivors and to eliminate the existing confusion. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and

effect from and after July 1, 1983.”

Acts 1989, No. 9, § 5: Feb. 1, 1989. Emergency clause provided: “It is hereby found and determined by the General Assembly that there is an urgent need to clarification of retirement laws and disability provisions of those laws when a member is permanently injured during the course of their employment that it is in the best interest of this state that this Act to provide such clarification take effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage.”

Acts 1993, No. 1199, § 5: Apr. 19, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that the disability retirement provisions of the Arkansas Local Police and Fire Retirement System law conflicts with federal laws; that any conflict between federal laws and state laws leads to costly litigation and attorneys’ fees; and that changing the laws of the state of Arkansas to eliminate these conflicts in laws will promote the more efficient and effective use of state and local government funds in Arkansas. Therefore, in order to promote the most proper expenditure of Arkansas state and local government funds, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 1136, § 5: July 1, 1998.

Acts 1997, No. 1242, § 6: Apr. 9, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the current Arkansas Local Police and Fire Retirement System law prevents disabled police and fire fighters from receiving the additional benefit of the social security benefits when they become disabled; that officers and firemen who earn eligibility for both of these benefits should be able to enjoy the coverage under both programs; and that the financial condition of some disabled police officers will be enhanced with this change in law becoming effective immediately. Therefore, in order to aid the financial condition of

disabled public servants, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved or vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2001, No. 769, § 3: July 1, 2001. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the annuity options available to retirants of the Local Police and Fire Retirement System do not adequately pay retirants for their earned benefits; that the annuity reductions are too great based on the true actuarial costs of the risks for beneficiary coverage; that the retirant’s annuity options should be increased to relieve those excessive costs; and that it is necessary to implement these changes at the beginning of the state’s fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2001, No. 1132, § 3: July 1, 2001. Emergency clause provided: “It is found and determined by the Eighty-Third General Assembly of the State of Arkansas that disability benefits available under old system fire and police pension funds are more lucrative than under the Local Police and Fire Retirement System; that it promotes increased unit morale to insure that fringe benefits are comparable between police and fire department employees; and that it is administratively beneficial to implement changes at the beginning of the state’s fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2001, No. 1133, § 3: July 1, 2001. Emergency clause provided: “It is found and determined by the Eighty-Third General Assembly of the State of Arkansas that volunteer firefighters make up the vast majority of fire protection services for

the citizens of the State of Arkansas; that a retirement benefit is one of the few means of compensating these brave and selfless public servants for their services to their local communities; that increasing the annuity rate for volunteer firefighters is the best means to repay them for their services; and it is administratively necessary to implement this benefit increase at the beginning of the state's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1536, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas

that an earlier cutoff of the temporary annuities provided for by the Local Police and Fire Retirement System can force a retiree to take an earlier Social Security retirement benefit than they would otherwise choose; that extending these annuities until a later age will give more flexibility to the police officers and firefighters to plan the age at which they wish to retire; and that the most administratively efficient time to make changes to retirement system laws is with the beginning of the State's fiscal year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

24-10-601. Generally.

No benefit shall be paid by the Arkansas Local Police and Fire Retirement System based upon pay which is covered by any other retirement plan, except social security.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805.

24-10-602. Annuity generally.

(a) Upon a member's retirement, he or she shall receive an annuity for life in accordance with the applicable benefit program elected by his or her employer, as follows:

(1) **BENEFIT PROGRAM #1.**

(A)(i) For each year of paid service resulting from employment in a position not also covered by social security, two and two tenths percent (2.2%) of his or her final average pay; plus

(ii) For each year of paid service resulting from employment in a position also covered by social security, one and two tenths percent (1.2%) of his or her final average pay.

(B)(i)(a) In addition, if the member is retiring as provided in § 24-10-604, § 24-10-605, § 24-10-606, or § 24-10-607, and if the member's age at retirement is less than social security's minimum age for an immediate unreduced retirement benefit, then the member shall receive a temporary annuity equal to one percent (1%) of his or her final average pay for each year of paid service resulting from employment in a position also covered by social security.

(b) The provisions of this section that allow a member who retires as provided in § 24-10-607, whose employment was also covered by social security, and who is thereby eligible for a temporary annuity,

shall be applied retroactively to all persons who retired under those circumstances on or after October 1, 1989.

(ii) The temporary annuity shall terminate at the end of the calendar month in which the earlier of the following events occurs:

(a) The member's death; or

(b) His or her attainment of social security's minimum age for an immediate unreduced retirement benefit.

(iii)(a) As a condition of awarding the temporary annuity for members retiring under § 24-10-607, the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall require the disabled member to file any and all appropriate forms and pleadings with the Social Security Administration and pursue through the administrative process a disability determination.

(b) Beginning July 1, 2001, any member who has had a temporary annuity terminated because of an award of disability retirement under the Social Security Act shall have that temporary annuity restored.

(2) BENEFIT PROGRAM #2.

(A)(i) For each year of paid service resulting from employment in a position not also covered by social security, three percent (3%) of his or her final average pay; plus

(ii) For each year of paid service rendered on or after the election date of Benefit Program 2 and resulting from employment in a position also covered by social security, two percent (2%) of his or her final average pay.

(B) For each year of paid service rendered before the election date of Benefit Program 2 and resulting from employment in a position also covered by social security, one percent (1%) of his or her final average pay.

(C)(i)(a) In addition, if the member is retiring as provided in § 24-10-604, § 24-10-605, § 24-10-606, or § 24-10-607, and if the member's age at retirement is less than social security's minimum age for an unreduced immediate retirement benefit, then the member shall receive a temporary annuity equal to one percent (1%) of his or her final average pay for each year of paid service rendered before the election date of Benefit Program 2 and resulting from employment in a position also covered by social security.

(b) The provisions of this section that allow a member who retires as provided in § 24-10-607, whose employment was also covered by social security, and who is thereby eligible for a temporary annuity, shall be applied retroactively to all persons who retired under those circumstances on or after October 1, 1989.

(ii) The temporary annuity shall terminate at the end of the calendar month in which the earlier of the following events occurs:

(a) The member's death; or

(b) His or her attainment of social security's minimum age for an immediate unreduced retirement benefit.

(iii)(a) As a condition of awarding the temporary annuity for members retiring under § 24-10-607, the board shall require the

disabled member to file any and all appropriate forms and pleadings with the Social Security Administration and pursue through the administrative process a disability determination.

(b) Beginning July 1, 2001, any member who has had a temporary annuity terminated because of an award of disability retirement under the Social Security Act shall have that temporary annuity restored.

(D) A member who has paid service rendered before the election date of Benefit Program 2 resulting from employment in a position also covered by social security may have the paid service treated as though the paid service had been rendered after the election date of Benefit Program 2 by paying to the Arkansas Local Police and Fire Retirement System, by a single contribution or by an increased rate of contributions, as approved by the board, the amounts which the member would have contributed under § 24-10-404 if the paid service had resulted from employment in a position not also covered by social security, together with regular interest to the date of payment;

(3) As used in subdivisions (a)(1) and (2) of this section, social security's minimum age for an immediate unreduced retirement benefit means one of the following:

(A) If the member is retiring as provided in § 24-10-607 and is in receipt of a disability benefit under the Social Security Act, the age when the social security disability benefit becomes effective;

(B) If the member's retirement is effective before July 1, 2001, as provided in § 24-10-604, § 24-10-605, § 24-10-606, or § 24-10-607, age sixty-two (62); or

(C) If the member's retirement is effective on or after July 1, 2001, as provided in § 24-10-604, § 24-10-605, § 24-10-606, or § 24-10-607, the minimum age for the member's receipt of an immediate unreduced social security old age benefit;

(4) In no event shall the total of the amounts computed pursuant to subdivisions (a)(1) and (2) of this section exceed at the time of retirement eighty percent (80%) of the final average pay plus the amounts provided in subdivision (a)(5) of this section for volunteer service;

(5)(A) For retirements effective before July 1, 2001, annuity amounts based upon volunteer service shall be in accordance with system provisions in force before July 1, 2001.

(B)(i) For retirements effective July 1, 2001, and the twelve (12) calendar months thereafter, the monthly annuity amount for each year of volunteer service shall be four dollars (\$4.00), to a maximum of one hundred sixty dollars (\$160) monthly for all volunteer service.

(ii) For retirements effective in the twelve (12) calendar months beginning July 1 thereafter, the monthly annuity amount for each year of volunteer service shall be four dollars (\$4.00), increased by any percentage increase in the inflation index for the period from December 2001 to the December immediately preceding the July 1, to a maximum for all volunteer service of one hundred sixty dollars

(\$160) monthly, similarly increased by any percentage increase in the inflation index.

(b) If each portion of a member's credited service is not covered by the same benefit program, then his or her total annuity for life shall be the total of the annuity for life determined under each applicable benefit program.

(c) Each employer shall have the credited service of each of its members covered by Benefit Program 1 as provided for in this section, unless the employer shall have elected another benefit program provided for in this section.

(d)(1) By majority vote of its governing body, each political subdivision may elect from time to time to cover its members who retire in the future under one (1) of the benefit programs provided for in this section.

(2) The clerk or secretary of the governing body of the political subdivision shall certify, in a manner and form acceptable to the board, the election of the benefit program to the board within ten (10) days of the vote.

(3) The effective date of the political subdivision's benefit program is the first day of the calendar month specified by the governing body, the first day of the calendar month next following receipt by the board of the certification of election of benefit program, or the effective date of the political subdivision's becoming an employer, whichever is the latest date.

(4) The election of benefit program may be changed from time to time by such a vote, but not more often than biennially.

(5) If the changed benefit program provides smaller annuities for life than the benefit program previously in effect, then the changed benefit program shall be applicable only to credited service for employment rendered from and after the effective date of the change.

(e) Should an employer change its election of benefit program as provided in this section, the employer contributions shall be correspondingly changed effective the same date as the benefit program change.

(f) The limitation on increases in an employer's contribution provided by § 24-10-405(h) shall not apply to any contribution increase resulting from:

(1) An employer's electing a benefit program which provides larger annuities; and

(2) Increased benefits applicable to retirements on or after July 1, 2001, as provided in subdivisions (a)(1)-(3) of this section.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1991, No. 428, § 1; 1995, No. 474, § 1; 1997, No. 1242, §§ 1, 2; 1999, No. 869, § 1; 1999, No. 1453, §§ 1, 2; 2001, No. 1133, § 1; 2001, No. 1536, § 1; 2001, No. 1703, §§ 1, 2.

A.C.R.C. Notes. Acts 1999, No. 1453, § 3 provided: "The provisions of this act which eliminate the reimbursement re-

quirement shall apply retroactively to allow certain individuals who paid the Local Police and Fire Retirement System for Social Security disability benefits to have those benefit reimbursements restored to them upon this act becoming effective."

Amendments. The 1997 amendment, in (a)(1)(B)(i), inserted "or § 24-10-607" in the first sentence and added the second

sentence; added (a)(1)(B)(iii); in (a)(2)(C)(i), inserted "or § 24-10-607" in the first sentence and added the second sentence; and added (a)(2)(C)(iii).

The 1999 amendment by No. 869 substituted "two and one tenth percent (2.1%)" for "two percent (2%)" in (a)(1)(A)(i); substituted "one and one tenth percent (1.1%)" for "one percent (1%)" in (a)(1)(A)(ii); substituted "three percent (3%)" for "two percent (2%)" in (a)(2)(A)(i); and made stylistic changes.

The 1999 amendment by No. 1453 rewrote (a)(1)(B)(iii) and (a)(2)(C)(iii).

The 2001 amendment by No. 1133 rewrote (a)(4).

The 2001 amendment by No. 1536 rewrote the section.

The 2001 amendment by No. 1703 substituted "Beginning July 1...annuity restored" for "The board shall condition the payment of the temporary annuity that, in the event the disabled member is awarded disability benefits under the federal Social Security Act, the temporary annuity shall terminate" in (a)(1)(B)(iii) and (a)(2)(C)(iii).

U.S. Code. The Social Security Act, referred to in this section, is codified primarily as 42 U.S.C. § 301 et seq.

24-10-603. Annuity options.

(a) Before the date the first payment of a member's annuity becomes due, but not thereafter, a member may elect in writing to receive his or her annuity as a life annuity or the member may elect to have his or her life annuity reduced, excepting any temporary annuity which may be payable. The member may nominate a beneficiary in accordance with the provisions of one (1) of the following options:

(1) OPTION A60 — SIXTY (60) MONTHS CERTAIN AND LIFE ANNUITY.

(A)(i) Under Option A60, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before sixty (60) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the sixty (60) months to such persons and in such shares as the retirant shall have designated in writing and filed with the Board of Trustees of the Arkansas Local Police and Fire Retirement System.

(ii) If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety-six percent (96%) of the life annuity if the first payment due date is before July 1, 2001, or ninety-seven percent (97%) of the life annuity if the first payment due date is on or after July 1, 2001.

(2) OPTION A120 — ONE HUNDRED TWENTY (120) MONTHS CERTAIN AND LIFE ANNUITY.

(A)(i) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons, and in such shares, as the retirant shall have designated in writing and filed with the board.

(ii) If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety percent (90%) of the life annuity if the first payment due date is before July 1, 2001, or ninety-five percent (95%) of the life annuity if the first payment due date is on or after July 1, 2001.

(3) OPTION B50 — FIFTY PERCENT (50%) SURVIVOR BENEFICIARY ANNUITY.

(A)(i) Under Option B50, the retirant shall be paid a reduced annuity for life with the provision that upon the retirant's death, one-half ($\frac{1}{2}$) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in writing and filed with the board before his or her annuity starting date.

(ii) However, the person must be either the retirant's spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ($\frac{1}{2}$) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) If the first payment due date is before July 1, 2001, the reduced annuity to the retirant shall be eighty-five percent (85%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by one-half of one percent (0.5%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by one-half of one percent (0.5%) up to a maximum of ninety-five percent (95%) for each year that the beneficiary's age is more than the retirant's age.

(C) If the first payment due date is on or after July 1, 2001, the reduced annuity to the retirant shall be ninety-one percent (91%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by one-half of one percent (0.5%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by one-half of one percent (0.5%) up to a maximum of ninety-five percent (95%) for each year that the beneficiary's age is more than the retirant's age.

(4) OPTION B75 — SEVENTY-FIVE PERCENT (75%) SURVIVOR BENEFICIARY ANNUITY.

(A)(i) Under Option B75, the retirant shall be paid a reduced annuity for life with the provision that upon the retirant's death, three-quarters ($\frac{3}{4}$) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in writing and filed with the board before the retirant's annuity starting date.

(ii) However, the person must be either the retirant's spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ($\frac{1}{2}$) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) If the first payment due date is before July 1, 2001, the reduced annuity to the retirant shall be eighty percent (80%) if the retirant's age and his or her beneficiary's age are the same on the first due date,

which shall be decreased by three-quarters of one percent (0.75%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by three-quarters of one percent (0.75%) up to a maximum of ninety percent (90%) for each year that the beneficiary's age is more than the retirant's age.

(C) If the first payment due date is on or after July 1, 2001, the reduced annuity to the retirant shall be eighty-six percent (86%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by three-quarters of one percent (0.75%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by three-quarters of one percent (0.75%) up to a maximum of ninety percent (90%) for each year that the beneficiary's age is more than the retirant's age.

(b)(1) At the written election of the retirant, a death of the beneficiary or the divorce or other marriage dissolution after retirement from a spouse designated as beneficiary shall cancel any optional plan elected at retirement to provide continuing lifetime benefits to the beneficiary and shall return the retirant to his or her single lifetime benefit equivalent, to be effective the month following receipt of the retirant's election by the plan.

(2) A retirant who is receiving a single lifetime benefit and who marries after retirement or within the one (1) year immediately preceding retirement may elect to cancel his or her single lifetime benefit and to elect an optional plan providing continuing lifetime benefits to his or her spouse, but only if the election is on a form approved by the board and is received by the board not earlier than one (1) year after the date of the marriage and not later than eighteen (18) months thereafter.

(3) The election shall be effective the first day of the month following its receipt.

(c) If a member does not elect an option, his or her annuity shall be paid him or her as a life annuity.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 2001, No. 769, § 1.

Amendments. The 2001 amendment redesignated former (a)(1) through (a)(4) as present (a)(1) through (a)(4)(C); substituted "Board of Trustees ... Retirement System" for "board" in (a)(1)(A)(i); added "if the first ... July 1, 2001" in (a)(1)(B) and (a)(2)(B); deleted "years" preceding "or old-

er" in (a)(3)(A)(ii) and (a)(4)(A)(ii); substituted "If the first payment due date is before July 1, 2001, the reduced" for "The reduced" in (a)(3)(B) and (a)(4)(B); inserted (a)(3)(C) and (a)(4)(C); in (b)(1), added "At the written election of the retirant," deleted it preceding "cancel any optional," and made related changes; and made gender neutral changes throughout.

24-10-604. Voluntary retirement.

(a) Any member in covered employment may retire with an annuity provided for in § 24-10-602 upon his or her written application to the Board of Trustees of the Arkansas Local Police and Fire Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of his

or her application, he or she desires to be retired, but only if, at the time of his or her separation from employment and at the time so specified for his or her retirement, the member shall have attained his or her normal retirement age and have five (5) years of credited service in force.

(b) He or she shall have the right to elect an option provided for in § 24-10-603.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1997, No. 1136, § 1. substituted "five (5) years of credited service" for "ten (10) years of credited service" in (a).
Amendments. The 1997 amendment

24-10-605. Compulsory retirement.

(a) A member's employer shall determine the compulsory separation age for its employees.

(b) Upon his or her separation from his or her last covered employment, a member with five (5) or more years of credited service in force who has attained his or her normal retirement age shall receive an annuity provided for in § 24-10-602 and shall have the right to elect an option provided for in § 24-10-603.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1997, No. 1136, § 2. substituted "five (5) or more years" for "ten (10) or more years" in (b).
Amendments. The 1997 amendment

24-10-606. Early retirement.

(a) Any member in covered employment who has not attained his or her normal retirement age may retire with an early annuity as provided in this section upon his or her written application to the Board of Trustees of the Arkansas Local Police and Fire Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of his or her application, he or she desires to be retired, but only if, at the time of his or her separation from employment and at the time so specified for his or her retirement, the member shall have attained age fifty (50) and have twenty (20) years of credited service in force.

(b) He or she shall have the right to elect an option provided for in § 24-10-603.

(c)(1) Upon early retirement, a member shall receive a certain percent of an annuity for life provided for in § 24-10-602.

(2) The percent shall be one hundred percent (100%) reduced by one-half of one percent (0.5%) multiplied by the number of months by which his or her age at early retirement is less than his or her normal retirement age.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805.

24-10-607. Disability retirement.

(a)(1)(A) Any active member with five (5) years of credited service, including credited service for seventy-five percent (75%) of the two (2) years immediately preceding his or her disability, who becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as a result of a personal injury or disease may be retired by the Board of Trustees of the Arkansas Local Police and Fire Retirement System upon written application filed with the board by or on behalf of the member.

(B) The employee shall be retired only if, after a medical examination of the member made by or under the direction of a physician or physicians designated by the board, the physician reports to the plan in writing that the member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will probably be permanent, and that the member should be retired.

(2) The disability annuity shall be effective the first day of the calendar month next following the later of:

(A) His or her termination of active membership; or

(B) Six (6) months before the date the written application is filed with the board.

(b)(1) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-10-602.

(2) He or she shall have the right to elect an option provided for in § 24-10-603.

(3) His or her disability retirement and annuity shall be subject to the provisions of subsection (e) of this section and to the provisions of § 24-10-610.

(c)(1)(A) Any active member who becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as the result of a personal injury or disease which the board finds to have arisen out of, and in the course of, his or her actual performance of duty as an employee may be retired by the board upon written application filed with the board by or on behalf of the member.

(B) The employee shall be retired only if, after a medical examination of the member made by or under the direction of a physician or physicians designated by the board, the physician reports to the plan in writing that the member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will probably be permanent, and that the member should be retired.

(2) The disability annuity shall be effective the first day of the calendar month next following the later of:

(A) His or her termination of active membership; or

(B) Six (6) months before the date the written application is filed with the board.

(d)(1)(A) Upon disability retirement as provided in subsection (c) of this section, a member shall receive an annuity provided for in § 24-10-602.

(B) However, for the sole purpose of computing the amount of the annuity for such a retirant who does not have twenty-five (25) years of credited service in force at the beginning of the disability retirement, credited service shall be granted for the period from the date of disability retirement to the date the retirant would have completed twenty-five (25) years of credited service.

(2)(A) Upon disability retirement as provided in subsection (c) of this section, which occurs on or after July 1, 2001, for members in paid service, a member shall receive an annuity provided for in § 24-10-602.

(B) However, for determining the amount of the annuity, the retirant's annuity amount shall either be equal to sixty-five percent (65%) of the final average salary of the member or shall be equal to the annuity paid to retirants for each year of paid service resulting from employment as provided for in § 24-10-602, whichever is greater.

(3) The retirant shall have the right to elect an option provided for in § 24-10-603.

(4) The retirant's disability retirement and annuity shall be subject to the provisions of subsection (e) of this section and to the provisions of § 24-10-610.

(e)(1) At least one (1) time each year during the first five (5) years following a member's retirement on account of disability and at least one (1) time in each three-year period thereafter, the board may require any disability retirant who has not attained age fifty-five (55) to undergo a medical examination to be made by or under the direction of a physician or physicians designated by the board.

(2) If the retirant refuses to submit to the medical examination in any period, his or her disability annuity may be suspended by the board until his or her withdrawal of his or her refusal.

(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability annuity may be revoked by the board.

(4) If, upon the medical examination of the retirant, the physician reports to the board that the retirant is physically and mentally able and capable of resuming suitable duty as an employee, his or her disability retirement shall terminate.

(5) If the former disability retirant does not immediately again become an employee, then, for the purpose of determining his or her eligibility for any other system benefit, he or she shall be considered to have terminated active membership as of the time of disability retirement, but for a reason other than disability or death.

(6)(A) If the former disability retirant immediately again becomes an employee, he or she shall immediately again become a member of the system, and his or her credited service at the time of his or her disability retirement shall be restored to his or her credit.

(B) He or she shall be given service credit for the period he or she was in receipt of the disability annuity.

(C) Should the former disability retirant again become totally and permanently disabled within two (2) years immediately following his or her return to membership, the seventy-five percent (75%) credited service requirement specified in subsection (a) of this section shall be waived.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1989, No. 9, §§ 1, 2; 1993, No. 1199, § 1; 1995, No. 643, § 1; 2001, No. 1132, § 1.

Amendments. The 2001 amendment redesignated former (d)(1) as present (d)(1)(A) and (d)(1)(B); in (d)(1)(B), in-

serted "a" preceding "retirant," and made minor punctuation changes; inserted (d)(2), and redesignated the following subsections accordingly; substituted "The retirant" for "He" in present (d)(3); and substituted "The retirant's" for "His" in present (d)(4).

24-10-608. Death of member in paid service.

(a)(1) If an active member with five (5) or more years of credited paid service, including credited service for the year immediately preceding his or her death, dies in employer-paid service before retirement, the applicable benefits provided in this subsection and subsections (c)-(e) of this section shall be paid, subject to § 24-10-610.

(2) His or her surviving spouse, who was married to the member at least one (1) year immediately preceding his or her death, shall receive an annuity computed in the same manner in all respects as if the member had:

(A) Retired the date of his or her death with entitlement to an annuity provided for in § 24-10-602;

(B) Elected Option B50 survivor beneficiary annuity provided for in § 24-10-603; and

(C) Nominated the spouse as joint beneficiary.

(3) The spouse annuity shall not be less than twenty percent (20%) of the deceased member's final average pay at the time of death, or one hundred twenty-five dollars (\$125) monthly, whichever is greater.

(b)(1) If an active member dies in employer-paid service before retirement as a result of a personal injury or disease which the Board of Trustees of the Arkansas Local Police and Fire Retirement System finds to have arisen out of and in the course of his or her actual performance of duty as an employee, the applicable benefits provided in this subsection and subsections (c)-(e) of this section shall be paid, subject to § 24-10-610.

(2) His or her surviving spouse, who was married to the member at least one (1) year immediately preceding his or her death, shall receive an annuity computed in the same manner in all respects as if the member had:

(A) Retired the date of his or her death with entitlement to an annuity provided for in § 24-10-602;

(B) Elected Option B50 survivor beneficiary annuity provided for in § 24-10-603; and

(C) Nominated the spouse as joint beneficiary.

(3) For the sole purpose of computing the amount of the annuity on account of any member who does not have twenty-five (25) years of credited service in force at the time of death, credited service shall be granted for the period from the date of his or her death to the date he or she would have completed twenty-five (25) years of credited service.

(4) The spouse annuity shall not be less than twenty percent (20%) of the deceased member's final average pay at the time of death or one hundred twenty-five dollars (\$125) monthly, whichever is greater.

(c)(1)(A) If a spouse annuity is payable as a result of a member's death while in paid service, his or her dependent children shall each receive an annuity of the greater of ten percent (10%) of the member's final average pay at the time of death or twenty-five dollars (\$25.00) monthly.

(B) However, while there are four (4) or more dependent children, each dependent child shall receive an annuity of an equal share of the greater of thirty percent (30%) of the final average pay or one hundred twenty-five dollars (\$125) monthly.

(2) Upon a child's ceasing to be a dependent child, his or her annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(d)(1)(A) If no spouse annuity is payable as a result of a member's death while in paid service, his or her dependent children shall each receive an annuity of the greater of twenty percent (20%) of the member's final average pay at the time of death or twenty-five dollars (\$25.00) monthly.

(B) However, while there are three (3) or more dependent children, each dependent child shall receive an annuity of an equal share of the greater of fifty percent (50%) of the final average pay or one hundred twenty-five dollars (\$125) monthly.

(2) Upon a child's ceasing to be a dependent child, his or her annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e) If, at the time of the member's death while in paid service, there is neither a spouse nor a dependent child, each dependent parent shall receive an annuity of the greater of twenty percent (20%) of the final average pay or fifty dollars (\$50.00) monthly, but only if the plan finds that the parent was dependent upon the member for at least fifty percent (50%) of his or her financial support at the time of death.

(f) Annuities payable under the provisions of this section shall commence the first day of the calendar month next following the date of the member's death or a later date specified for the commencement of annuity payments.

History. Acts 1981, No. 364, § 5; 1983, No. 654, § 1; A.S.A. 1947, § 12-3805; Acts 1995, No. 1031, § 1.

24-10-609. Death of member in volunteer service.

(a)(1) If an active member who has accrued twenty (20) or more years of credited service, including credited service for the year immediately preceding his or her death, or who has attained his or her normal retirement age, dies in employer volunteer service before retirement, the applicable benefits provided in this subsection and subsection (c) of this section shall be paid, subject to § 24-10-610.

(2) His or her surviving spouse, who was married to the member at least one (1) year immediately preceding his or her death, shall receive an annuity computed in the same manner in all respects as if the member had:

(A) Retired the date of his or her death with entitlement to an annuity provided for in § 24-10-602;

(B) Elected Option B50 survivor beneficiary annuity provided for in § 24-10-603; and

(C) Nominated the spouse as joint beneficiary.

(b)(1) If an active member dies in employer volunteer service before retirement as a result of a personal injury or disease which the Board of Trustees of the Arkansas Local Police and Fire Retirement System finds to have arisen out of and in the course of his or her actual performance of duty as an employee, the applicable benefits provided in this subsection and subsection (c) of this section shall be paid, subject to § 24-10-610.

(2) His or her surviving spouse, who was married to the member at least one (1) year immediately preceding his or her death, shall receive an annuity computed in the same manner in all respects as if the member had:

(A) Retired the date of his or her death with entitlement to an annuity provided for in § 24-10-602;

(B) Elected Option B50 survivor beneficiary annuity provided for in § 24-10-603; and

(C) Nominated the spouse as joint beneficiary.

(3) For the sole purpose of computing the amount of the annuity on account of any member who does not have twenty-five (25) years of credited volunteer service in force at time of death, credited volunteer service shall be granted for the period from the date of his or her death to the date he or she would have completed twenty-five (25) years of credited volunteer service.

(c)(1)(A) Upon a member's death while in volunteer service and in qualifying circumstances provided in subsections (a) and (b) of this section, his or her dependent children shall each receive an annuity of fifteen dollars (\$15.00) monthly.

(B) However, while there are three (3) or more dependent children, each dependent child shall receive an annuity of an equal share of forty dollars (\$40.00) monthly.

(2) Upon a child's ceasing to be a dependent child, his or her annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(d) Annuities payable under the provisions of this section shall commence the first day of the calendar month next following the date of the member's death or a later date specified for the commencement of annuity payments.

History. Acts 1981, No. 364, § 5; 1983, No. 654, § 1; A.S.A. 1947, § 12-3805; Acts 1995, No. 1031, § 2.

24-10-610. Limitations on death and disability annuities.

(a) If a death annuity is payable on behalf of a member who dies in employer service before retirement, or for the portion of a disability annuity payable before a disability retiree's attainment of age fifty-five (55), in no event shall the total amount of the system annuities based on paid service exceed one hundred percent (100%) of the amount of his or her final average pay at the time of death or disability, as the case may be, less the total of the following amounts:

(1) Workers' compensation, if any, on account of the death or disability; and

(2) Benefits, if any, from social security on account of the death or disability.

(b)(1) Beginning with the January 1 which is at least twelve (12) full months after the effective date of an annuity, an amount of final average pay usable for the purposes of this section shall be redetermined each January 1, and the redetermined amount shall be applicable for the ensuing year.

(2) The redetermined amount shall be the amount of final average pay at the time of termination of covered employment increased by any percentage increase in the inflation index for the period from the October immediately preceding the effective date of the benefit to the October immediately preceding the January 1.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1993, No. 1202, § 1; 1995, No. 643, § 2; 1997, No. 765, § 1. **Amendments.** The 1997 amendment deleted former (a)(3).

24-10-611. Termination of covered employment.

(a) A member who terminates covered employment before attaining his or her normal retirement age, for a reason other than death, early retirement, or disability retirement, shall be entitled to an annuity computed in accordance with the provisions of this section, as it provides at the time of the last termination of covered employment, subject to the member's satisfying all of the following conditions:

(1) The member has five (5) years of credited service;

(2) The member lives to his or her annuity starting date;

(3) The member makes written application for retirement and payment of the annuity to the Arkansas Local Police and Fire Retirement System on or after the date which is six (6) months before the date he or she attains his or her normal retirement age; and

(4) The annuity starting date shall be the first day of the calendar month next following the later of:

(A) The date the member attains his or her normal retirement age; and

(B) The date the written application is received by the system.

(b)(1) The monthly amount of a vested termination annuity shall be computed in the same manner as a normal annuity amount provided for in § 24-10-602, but based upon his or her credited service and final average pay at the time of termination of covered employment.

(2) If the effective date of the annuity is at least twelve (12) full months after termination, an amount of final average pay usable for the purposes of this section shall be redetermined.

(3) The redetermined amount shall be the amount of final average pay at the time of termination of covered employment increased by one-half ($\frac{1}{2}$) of any percentage increase in the inflation index for the period from the month immediately preceding the termination to the month immediately preceding the annuity effective date.

(4) He or she shall have the right to elect an option provided for in § 24-10-603.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1997, No. 1136, § 3; 1999, No. 1070, § 5.

The 1999 amendment deleted (a)(2), and redesignated the remaining subdivisions of (a) accordingly.

Amendments. The 1997 amendment substituted "five (5) years" for "ten (10) years" in (a)(1).

24-10-612. Redetermination of benefits.

(a) Beginning with the July 1 which is at least twelve (12) full months after the effective date of a monthly benefit, the amount of the benefit shall be redetermined effective each July 1, and the redetermined amount shall be payable for the ensuing year.

(b) The redetermined amount shall be the amount of the benefit otherwise payable multiplied by the following percent: one hundred percent (100%), plus three percent (3%) for each full year, but excluding any fraction of a year, in the period from the effective date of the benefit to the current July 1.

(c) For purposes of this section, "the amount of the benefit otherwise payable" means the monthly amount of benefit which would be payable disregarding the provisions redetermining benefit amounts after retirement.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1995, No. 1267, § 1; 1997, No. 289, § 1.

deleted "Subject to the maximum stated in subsection (c) of this section" from the beginning of (b); deleted former (c); and redesignated former (d) as present (c).

Amendments. The 1997 amendment

24-10-613. Disposition of accumulated contributions.

(a)(1) If a retirant and his or her eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions, including any interest credits standing to the retirant's credit in the Arkansas Local Police and Fire Retirement System at the time of his or her retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to the persons the retirant nominated by written designation duly executed and filed with the Board of Trustees of the Arkansas Local Police and Fire Retirement System.

(2) If no designated person survives the retirant and his or her beneficiary, the difference shall be paid to the estate of the survivor of the retirant and his or her beneficiary.

(b) In the event a member ceases to be a member, other than by death, before the date he or she becomes vested to receive an annuity payable by the system, he or she shall be paid the accumulated contributions standing to his or her credit in the members' deposit account upon his or her written application filed with the board.

(c)(1) In the event a member dies and no annuity becomes or will become payable by the system on account of his or her death, his or her accumulated contributions standing to his or her credit in the members' deposit account at the time of his or her death shall be paid to the persons he or she nominated by written designation duly executed and filed with the board.

(2) If there are no designated persons surviving the member, the accumulated contributions shall be paid to his or her surviving spouse, or to his or her estate if there is no surviving spouse.

(d)(1) In the event a member's membership in the system terminates and no annuity becomes or will become payable on his or her account, any accumulated contributions standing to his or her credit in the members' deposit account and unclaimed by the member or his or her legal representative within three (3) years from and after the date his or her membership terminated shall be transferred to the income-expense account.

(2) If, thereafter, proper application is made for the accumulated contributions, the board shall pay them from the income-expense account but without interest after the date payment was first due.

History. Acts 1981, No. 364, § 5; A.S.A. substituted "becomes vested to receive" for 1947, § 12-3805; 1999, No. 1070, § 4. "becomes entitled to retire with" in (b).

Amendments. The 1999 amendment

24-10-614. Payment of reserve value.

(a) The plan may pay the reserve value of any annuity benefit to a retirant or beneficiary when the annuity benefit payment is less than twenty dollars (\$20.00) per month, except that the consent of the payee shall be required if the payment exceeds one thousand seven hundred fifty dollars (\$1,750).

(b) The reserve value shall be the actuarial equivalent of the annuity otherwise payable.

(c) Any lump sum payment so made shall be a complete discharge of all liability under the plan with respect to the annuity.

History. Acts 1981, No. 364, § 5;
A.S.A. 1947, § 12-3805.

24-10-615. Suspension of payments upon request.

(a) Notwithstanding any other provision of a plan, a person entitled to receive a plan benefit may request the plan in writing, for personal reasons and without disclosure thereof, to suspend for any period the payment of all or any part of the benefit otherwise payable to him or her under this chapter.

(b) Upon receipt of the request, the plan shall authorize the suspension, and the person shall be deemed to have forfeited all rights to the amount of benefits so suspended but shall have the right to have the full benefit otherwise payable reinstated as to future monthly payments upon written notice to the plan to revoke the prior request for a suspension under this section.

History. Acts 1981, No. 364, § 5;
A.S.A. 1947, § 12-3805.

24-10-616. Subjection of benefit rights to legal process.

The right of a person to an annuity, the return of accumulated contributions, the annuity itself, any annuity option, any other right accrued or accruing under the provisions of this chapter, and all moneys belonging to a plan shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this chapter. However, an employer shall have the right of setoff for any claim arising from embezzlement by, or fraud of, a member, retirant, or beneficiary.

History. Acts 1981, No. 364, § 5;
A.S.A. 1947, § 12-3805.

24-10-617. Survivor health benefits.

(a) When a municipal employee who is vested in a municipal retirement system under the Arkansas Local Police and Fire Retirement System, § 24-10-101 et seq., or under a local police pension and relief fund, § 24-11-401 et seq., or under a fire pension and relief fund, § 24-11-801 et seq., is killed or dies in the course of his or her employment and is survived by a spouse, or has surviving dependents actively drawing a benefit from those municipal retirement systems, then the surviving spouse or surviving dependents may continue to participate in the municipality's health care plan as long as the

surviving spouse or surviving dependents pay both employer and employee contributions to the health care plan.

(b) However, a surviving spouse or surviving dependent may qualify to continue on the health care plan only so long as they remain an eligible beneficiary under the retirement system.

History. Acts 1997, No. 695, § 1.

may not apply to this section which was

A.C.R.C. Notes. References to “this chapter” in §§ 24-10-101 to 24-10-616

enacted subsequently.

24-10-618. Limitation on benefits granted by Acts 1997, No. 765.

No benefit enhancement provided for by § 24-10-610 shall be implemented if it would cause the publicly supported retirement system’s unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by § 24-10-610 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

History. Acts 1997, No. 765, § 2.

may not apply to this section which was

A.C.R.C. Notes. References to “this chapter” in §§ 24-10-101 to 24-10-616

enacted subsequently.

24-10-619. Limitation on benefits granted by Acts 1997, No. 1136.

No benefit enhancement provided for by §§ 24-10-604, 24-10-605, and 24-10-611 shall be implemented if it would cause the publicly supported retirement system’s unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by §§ 24-10-604, 24-10-605, and 24-10-611 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

History. Acts 1997, No. 1136, § 4.

601 to 24-10-616 may not apply to this

A.C.R.C. Notes. References to “this chapter” in subchapters 1-5 and §§ 24-10-

section which was enacted subsequently.

CHAPTER 11

LOCAL POLICE AND FIRE PENSION AND RELIEF FUNDS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. DISCLOSURE OF FINANCIAL CONDITION — ARKANSAS FIRE AND POLICE PENSION REVIEW BOARD.
3. POLICE PENSION AND RELIEF FUNDS GENERALLY.
4. POLICE PENSION AND RELIEF FUNDS — CITIES OF THE FIRST CLASS.
5. POLICE PENSION AND RELIEF FUNDS — CITIES OF 50,000 TO 75,000. [REPEALED.]

SUBCHAPTER.

6. POLICE PENSION AND RELIEF FUNDS — CITIES OF 40,000 TO 50,000. [REPEALED.]
7. POLICE PENSION AND RELIEF FUNDS — CITIES OF 3,000 TO 8,000. [REPEALED.]
8. FIREMEN'S RELIEF AND PENSION FUNDS.

A.C.R.C. Notes. References to "this chapter" in subchapters 1-7 and §§ 24-11-801 to 24-11-830 may not apply to §§ 24-

11-831 and 24-11-832 which were enacted subsequently.

RESEARCH REFERENCES

ALR. Determination whether firefighter's disability is service-connected for disability pension purposes. 7 ALR 4th 799.

Am. Jur. 60A Am. Jur. 2d, Pensions, §§ 1616-1618, 1633.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 24-11-101. Legislative intent.
24-11-102. Increase in benefits.

SECTION.

- 24-11-103. Actuarial valuation.
24-11-104. Rules and regulations.

Cross References. Participation in pension and relief funds by employees of departments of public safety in certain cities, § 14-42-412.

Payment to dependents of police officers and fire fighters killed in the line of duty, § 21-5-701 et seq.

Scholarships for children of law enforcement officers and fire fighters disabled or killed in line of duty, § 6-82-501 et seq.

State police retirement system, § 24-6-101 et seq.

Transfer of fire fighter to public safety division in certain cities and participation in police officer's pension and relief fund, § 14-42-413.

Effective Dates. Acts 1979, No. 839, § 4: Apr. 11, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that firemen's and policemen's pension and relief funds should not be permitted to incur additional actuarial commitments which will cause their actuarial soundness to deteriorate, and that the immediate passage of this Act is necessary to enable those firemen's and policemen's pension and relief funds which have access to additional financial resources to increase survivor

benefits without causing a deterioration in the actuarial soundness of the funds, and without creating similar obligations in other pension funds. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1570, § 10: Apr. 15, 1999. The emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Firemen's and Police Officers' Pension and Relief Fund need to be amended concerning the distribution and allocation of funds and that the effective administration of State government makes it necessary for these changes to begin immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the

period of time during which the Governor shall become effective on the date the last may veto the bill. If the bill is vetoed by house overrides the veto.” the Governor and the veto is overridden, it

24-11-101. Legislative intent.

(a) The provisions of this subchapter are intended to establish procedures whereby the benefits to members and beneficiaries under the firemen's and policemen's pension and relief funds within the respective municipalities of this state may be increased on an orderly basis without a deterioration of actuarial soundness and are further intended to establish procedures for review and certification in order that the proposed increase in pension and relief fund benefits will not result in a deterioration of actuarial soundness prior to the adoption or implementation thereof.

(b) It is not the intent of this subchapter to repeal or modify any of the existing firemen's or policemen's pension and relief fund laws of this state, and this subchapter shall be construed to supplement and to be in addition to any of those laws in effect.

History. Acts 1979, No. 839, § 3; 1981, No. 283, § 3; A.S.A. 1947, § 19-2232.

24-11-102. Increase in benefits.

(a) The board of trustees of a municipal firemen's relief and pension fund and the board of trustees of a policemen's pension and relief fund are authorized to increase benefits for future or current retired members and beneficiaries of the firemen's relief and pension fund or policemen's pension and relief fund.

(b) Any proposed increase by the board of trustees shall be in strict compliance with the following conditions:

(1) The board of trustees of the firemen's relief and pension fund or policemen's pension and relief fund shall adopt a resolution approved by not less than three-fourths ($\frac{3}{4}$) of the membership of the board of trustees, outlining the proposed increase in benefits;

(2)(A) The action proposed by the board of trustees under the resolution shall be determined by actuarial evaluations to be actuarially feasible to the extent that the unfunded liabilities resulting from the proposed increase in member or beneficiary benefits under the fund will be funded over a period of not more than thirty (30) years, pursuant to rules promulgated by the Arkansas Fire and Police Pension Review Board, based on the current available and known revenue or income sources available to the retirement and pension fund.

(B) The actuarial valuations shall be made by an actuary who is a member of the American Academy of Actuaries and who is employed by the review board.

(C) The Executive Director of the Arkansas Fire and Police Pension Review Board shall state the actuarial findings in writing to the board of trustees and shall certify the appropriate action to be taken; (3)(A) A copy of the resolution adopted by the board of trustees of the firemen's relief and pension fund or policemen's pension and relief fund outlining the proposed increase in member or beneficiary benefits is filed with the executive director, who shall determine that an actuarial valuation has been made in accordance with the provisions of this subchapter and that the actuarial valuation had determined that the proposed increase in benefits may be funded, over a period of time set forth in subdivision (b)(2)(A) of this section, based on available or defined revenue sources of the relief fund, in which event the executive director may approve the proposed increase to member beneficiary benefits under the firemen's relief and pension fund or policemen's pension and relief fund.

(B) The board of trustees of the firemen's relief and pension fund or policemen's pension and relief fund shall comply with the appropriate action as approved by the executive director; and

(4)(A) A copy of the resolution adopted by the board of trustees, a copy of the actuarial valuation, and a copy of the action taken by the executive director is filed with the circuit clerk and the city clerk of the county and city in which the firemen's relief and pension fund or policemen's pension and relief fund is located.

(B) All actions taken by the executive director shall be subject to review and acceptance by the review board.

(c) If it is determined by the review board that a local pension plan is not complying with the provisions of law governing benefit increases, the executive director shall certify that noncompliance to the Insurance Commissioner, and the commissioner shall withhold all moneys otherwise due the plan from the state until compliance is achieved.

History. Acts 1979, No. 839, § 1; 1981, 1947, § 19-2230; Acts 1987, No. 279, § 2; No. 283, § 1; 1983, No. 329, § 1; A.S.A. 1995, No. 684, § 1.

24-11-103. Actuarial valuation.

(a) The cost of actuarial valuation made under the provisions of § 24-11-102 shall be paid by the board of trustees of the firemen's or policemen's pension and relief fund which proposes to increase member or beneficiary benefits under the fund.

(b) The actuarial valuation shall include:

(1) The current financial and actuarial status of the income and liabilities of the firemen's or policemen's pension and relief fund;

(2) A detailed statement of the proposed benefit increases;

(3) A comparison reflecting that the level of contributions and other income under the pension and relief fund is sufficient to amortize the unfunded liabilities resulting from the benefit increase over a thirty-year period; and

(4) A valuation determining whether, in the opinion of the actuary, the benefit increase, in conjunction with the addition of resources to reserves to increase actuarial soundness, will result in a deterioration of the actuarial soundness of the fund.

History. Acts 1979, No. 839, § 2; 1981, No. 283, § 2; A.S.A. 1947, § 19-2231.

24-11-104. Rules and regulations.

The Department of Finance and Administration is authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions of §§ 24-11-301, 24-11-302, 24-11-809, and 24-11-810.

History. Acts 1999, No. 1570, § 6.

SUBCHAPTER 2 — DISCLOSURE OF FINANCIAL CONDITION — ARKANSAS FIRE AND POLICE PENSION REVIEW BOARD

SECTION.

- 24-11-201. Definitions.
- 24-11-202. Noncompliance with subchapter.
- 24-11-203. Arkansas Fire and Police Pension Review Board.
- 24-11-204. General financial objective of plan.
- 24-11-205. Actuarial valuation.
- 24-11-206. Annual financial report.
- 24-11-207. Annual accountant's report.

SECTION.

- 24-11-208. Administration of underfunded plans.
- 24-11-209. Arkansas Fire and Police Pension Guarantee Fund.
- 24-11-210. Requirements for qualified plans under the Internal Revenue Code.
- 24-11-211. Arkansas Policemen's Pension Supplement Program.
- 24-11-212. Future supplement funds.

Effective Dates. Acts 1979, No. 700, § 6: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that there exists a severe need for a more adequate system of disclosure of financial condition of Firemen's and Policemen's Pension Funds. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1979."

Acts 1983, No. 45, § 3: Feb. 3, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current requirement of an accountant's certification of the financial report places an extreme hardship on small funds and that this Act is necessary to provide needed relief while ensuring fiscal responsibility. Therefore, an emer-

gency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 512, § 5: July 1, 1983.

Acts 1985, No. 898, § 3: Apr. 15, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current requirement of an accountant's certification of the financial report places an extreme hardship on small funds and that this Act is necessary to provide needed relief while ensuring fiscal responsibility. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 992, § 7: Jan 1, 1986.

Acts 1995, No. 1266, § 7: Jan. 1, 1995.

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1452, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that many of the retired police officers are not receiving adequate benefits, that often times, these officers have few financial resources outside of their pensions, that the policemen's pension and relief funds are often not able to pay full benefits to these officers because of their unfounded liabilities, and

that a program which supplements the benefits of these retired officers which does not come from revenues of the pension funds themselves will benefit all citizens of the state and it is necessary to implement the changes in benefits at the beginning of the current fiscal year and therefore this act should have effect at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 1701, § 10: April 17, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the provisions of this act must be implemented before the funds described herein are next disbursed in order to insure the fiscal well-being of the beneficiaries of the Police and Fire Pension and Relief Funds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-11-201. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Accountant" means an accountant who is authorized by Arkansas law to practice public accounting in Arkansas;

(2) "Actuary" means an actuary:

(A) Who is a member of the American Academy of Actuaries or who meets other criteria for qualification which may be established by the General Assembly; and

(B) Who is experienced in retirement plan financing; and

(3) "Plan" means any Arkansas municipal policemen's pension and relief fund or any Arkansas municipal firemen's pension and relief fund, including pension and relief funds of volunteer fire departments.

History. Acts 1979, No. 700, § 1; 1981, No. 286, § 1; A.S.A. 1947, § 19-5701.

24-11-202. Noncompliance with subchapter.

(a) If it is determined that a plan is not complying with the provisions of this subchapter, the Executive Director of the Arkansas Fire and Police Pension Review Board shall certify the noncompliance to the Director of the Department of Finance and Administration, who shall withhold all moneys otherwise due the plan from the state until compliance is achieved.

(b) All actions taken by the Executive Director of the Arkansas Fire and Police Pension Review Board shall be subject to review and acceptance by the Arkansas Fire and Police Pension Review Board.

History. Acts 1979, No. 700, § 5; 1981, No. 286, § 5; 1983, No. 512, § 4; 1985, No. 383, § 1; A.S.A. 1947, § 19-5705; Acts 2001, No. 1701, § 1.

Amendments. The 2001 amendment substituted "Director of the Department

of Finance and Administration" for "Insurance Commissioner" in (a); and substituted "Executive Director of the Arkansas Fire and Police Pension Review Board" for "executive director" in (b).

24-11-203. Arkansas Fire and Police Pension Review Board.

(a) The purpose of this section, which creates and establishes the Arkansas Fire and Police Pension Review Board, is to establish a state pension review board for all municipal fire and police pension funds established under §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, which shall oversee all requests for benefit increases and review the annual accountant's reports and biennial actuarial valuations required by this subchapter and which shall oversee, invest, and administer the Arkansas Fire and Police Pension Guarantee Fund as established by law.

(b)(1) The board shall be composed of nine (9) persons as follows:

(A) Two (2) fire fighters, an active member, retired member, or a deferred retirement option plan participant, one (1) of whom shall be appointed by the Governor from a list submitted by the Arkansas Council of Professional Fire Fighters and the other from a list submitted by the Arkansas State Fire Fighters Association;

(B) Two (2) police officers, an active member, retired member, or a deferred retirement option plan participant, to be appointed by the Governor, one (1) from a list submitted by the Arkansas Municipal Police Association and the other from a list submitted by the Fraternal Order of Police;

(C) Three (3) persons to be appointed by the Governor from a list submitted by the Arkansas Municipal League;

(D) One (1) person who is not a member, retirant, or beneficiary of the Arkansas Local Police and Fire Retirement System and who is not a current or former member of the governing body of any political subdivision, to be appointed by the Governor from a list of persons submitted to the Governor by the Joint Committee on Public Retirement and Social Security Programs; and

(E) The Director of the Department of Finance and Administration.

(2) The board shall elect one (1) of its members as chair.

(c) Board members appointed as employee members must be active members, retired fire fighters or police officers, or deferred retirement option plan participants of local firemen's and policemen's pension and relief funds established under §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(d) Board members appointed as employer members shall be elected or appointed officials of municipalities or fire protection districts with established firemen's or policemen's pension and relief funds. However, both employer members shall not be from the same municipality or fire protection district.

(e) Whenever the Governor is to appoint a board member, the list of persons submitted to the Governor shall consist of the names of at least two (2) persons.

(f)(1) The normal term of office shall be four (4) years from January 1 next following the appointment.

(2) Each board member shall continue to serve until a successor has been appointed and has qualified.

(g)(1) In the event any employee board member ceases to be an active or retired member or a deferred retirement option plan participant of a local pension fund, or any employer board member ceases to be an appointed or elected official of an employer or becomes a member of a local pension fund, or if the citizen board member becomes a member of a local pension fund or an elected or appointed official of an employer, or if any board member fails to attend three (3) consecutive meetings of the board, unless in each case excused for cause by the remaining board members attending the meeting or meetings, the member shall be considered as having resigned from the board, and the board shall declare by resolution the office of that member vacated.

(2) If a vacancy occurs in the office of a member, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(3) From the time a vacancy in the office of a member occurs and the board has begun the steps to see that the vacancy will be filled and before the time the vacancy is filled, the members in office by majority vote elect a person to fill temporarily the vacancy for the interim period, but in no event for a period longer than one (1) year.

(h) The executive director and staff of the Arkansas Local Police and Fire Retirement System shall serve as executive director and staff for the board.

(i)(1) The board shall be responsible for reviewing and approving at least once annually all actions taken by the staff in regard to benefit increase requests and administration of the disclosure and reporting requirements under this subchapter.

(2) All benefit increase determinations shall be made in compliance with the provisions of §§ 24-11-101 — 24-11-103.

(j)(1) The board shall have the power to make all rules and regulations necessary to enforce the laws governing funding standards and benefit levels for fire and police pension and relief funds. Further, the board shall have the authority to make all rules and regulations necessary to assure continued tax qualification of each firemen's and policemen's pension and relief fund that is subject to this subchapter.

(2) All rules and regulations must be promulgated in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq. In addition, all rules and regulations relating to continued tax qualification of such plans shall be specifically presented to the Joint Committee on Public Retirement and Social Security Programs or the Legislative Council when the General Assembly is not in session for review prior to final adoption.

(k)(1) Expenses incurred by the board for performing biennial actuarial valuations and for all other administrative services to local pension funds shall be paid from the revenues derived from premium taxes levied by the state on insurers for the support of fire and police retirement programs.

(2) It shall be the duty of the board to report its administrative and actuarial expenses to the Insurance Commissioner by or on April 30 of each year for the previous year.

(3) It shall be the duty of the commissioner to report the amount that the board is entitled to receive to the Auditor of State and the Treasurer of State.

(4) As soon as the Auditor of State receives the report of the commissioner showing the amount due, the Auditor of State shall draw his or her warrant on the Treasurer of State in favor of the board for the amount due and shall deliver the warrant to the board.

(5) The board shall establish a certain percentage of the insurance tax revenues to use to meet its proper administrative expenses each year, but in no event shall the board be entitled to more than one percent (1%) of the insurance tax revenues.

(6) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1983, No. 381, §§ 1, 2; 1985, No. 383, § 2; 1985, No. 992, § 2; A.S.A. 1947, §§ 19-5706, 19-5707; Acts 1987, No. 142, § 1; 1995, No. 132, § 1; 1995, No. 1266, § 1; 1997, No. 250, § 234; 1999, No. 543, § 1; 1999, No. 670, § 1; 2001, No. 1542, § 1.

A.C.R.C. Notes. The operation of subdivision (k)(6) may be superseded in part by Acts 1995, No. 1211, codified as § 25-16-901 et seq.

Publisher's Notes. Acts 1985, No. 383, § 2, provided, in part, that the terms of office of the first members should begin on

July 1, 1983, and that the first members should determine by lot which of them would serve terms expiring either January 1, 1986, or January 1, 1988. One fire fighter and one police officer were to serve terms expiring in 1986 and the other employee members were to serve terms expiring in 1988. One employer member was to serve a term expiring in 1986 and the other was to serve a term expiring in 1988.

Amendments. The 1997 amendment rewrote (k)(6).

The 1999 amendment by No. 543 sub-

stituted "nine (9) persons" for "seven (7) persons" in the introductory language of (b)(1); substituted "Three (3)" for "Two (2)" in (b)(1)(C); inserted "current or former" in (b)(1)(D); and added (b)(1)(E) and made related changes.

The 1999 amendment by No. 670 added the second sentences in (j)(1) and (j)(2).

The 2001 amendment inserted "an active member, retired member or a deferred retirement option plan participant" in (b)(1)(A) and (b)(1)(B); inserted "(1)" in (b)(2); inserted "retired fire fighters or police officers, or deferred retirement option plan participants" in (c); substituted "an active or retired member or a deferred

retirement option plan participant" for "member" in (g)(1); deleted "review" preceding "board" in (g)(3), (h), (i)(1), (j)(1), (k)(1), (k)(2), and (k)(3); substituted "system" for "Arkansas Local Police and Fire Retirement System" in (h); substituted "Commissioner" for "Commission" in (k)(2); substituted "commissioner to report the amount that" for "Insurance Commissioner to report the amount which" in (k)(3); and made gender neutral changes throughout.

Cross References. Local police and fire retirement system, § 24-10-101 et seq.

24-11-204. General financial objective of plan.

(a) The general financial objective of each plan shall be to establish and receive contributions, expressed as percentages of active employee payroll or, in the case of volunteer fire department pension plans, expressed in dollar amounts, which will remain approximately level from year to year and which will not have to be increased for future generations of citizens.

(b) More specifically, contributions received each year shall be sufficient both:

(A) To fully cover the costs of benefit commitments being made to employees for their service being rendered in each year; and

(B) To make a level payment which, if paid annually over a reasonable period of future years, will fully cover the unfunded costs of benefit commitments for service previously rendered.

History. Acts 1979, No. 700, § 3; 1981, No. 286, § 3; A.S.A. 1947, § 19-5703.

24-11-205. Actuarial valuation.

(a)(1) The Executive Director of the Arkansas Fire and Police Pension Review Board shall cause an actuarial valuation of each plan to be made biennially to determine how well the plan is meeting the objectives set forth in § 24-11-204.

(2) The actuarial valuation shall be prepared by an actuary under the supervision of the executive director, who shall establish and implement procedures for securing actuarial services.

(3) Valuations shall be prepared at least for each odd-numbered year ending December 31, or as required by the board for all or certain plans.

(4) The executive director shall submit one (1) copy of the actuarial study to the local pension board and a summary of the findings to the Joint Committee on Public Retirement and Social Security Programs.

(5) Expenses incurred for performing the actuarial valuations should be paid from the revenues derived from the premium taxes levied on insurers for the support of fire and police retirement programs.

(6) The method and amount of the payment shall be allowed by § 24-11-203.

(b) The report of each actuarial valuation shall include at least the following:

(1) A summary of the plan benefits evaluated;

(2) The level normal cost of plan benefits, expressed as a percent of active employee payroll or, in the case of volunteer fire department pension plans, expressed in dollar amounts, computed in accordance with generally accepted actuarial funding methods which produce a normal cost rate at least as high as the entry age normal cost funding method;

(3) The accrued liabilities of the plan, which shall be equal to the present value of all future benefits for present plan participants minus the present value of all future normal cost contributions for present plan participants;

(4) The contribution required to amortize unfunded accrued liabilities over a period not to exceed forty (40) years. Unfunded accrued liabilities shall be equal to the accrued liabilities minus the plan's accrued assets, which are the plan's cash and investments;

(5) The employer contribution required to provide for the normal cost of the plan plus the amount required to amortize the unfunded accrued liability of the plan;

(6) Assumptions of future experiences which are appropriate for the fund in pursuing the general financial objective established by this subchapter. Assumptions shall be made with respect to at least the following:

(A) Investment return;

(B) Pay increase assumptions;

(C) Mortality;

(D) Withdrawal (turnover);

(E) Disability;

(F) Retirement ages; and

(G) Change in active employee group size.

If the pay increase assumption is a constant percentage for all active employee ages, the investment return rate percentage shall not exceed the pay increase percentage by more than two percent (2%) annually, compounded annually, and preferably not by more than one and one-half percent (1.5%). If the pay increase assumptions are the total of a constant percent plus a changing percentage which decreases as age increases, the investment return rate percentage shall not exceed the constant percent of the pay increase assumptions by more than three percent (3%) annually, compounded annually, and preferably not by more than two percent (2%).

If the entire employee group size is assumed to increase, the increase shall be assumed to occur within the five-year period after the valuation date, and to an eventual active employee group size no more than one hundred fifteen percent (115%) of present size;

(7) Changes in each assumption since the last actuarial valuation shall be noted; and

(8) The actuary shall certify that, in his or her opinion, the assumptions used for the valuation produce results which, in the aggregate, are reasonable.

History. Acts 1979, No. 700, § 3; 1981, 992, § 1; A.S.A. 1947, § 19-5703; Acts No. 286, § 3; 1983, No. 512, § 2; 1985, No. 1989, No. 374, § 1.

24-11-206. Annual financial report.

(a) Each plan shall cause to be prepared an annual financial report following the close of each fiscal year. The financial report shall contain at least the following information:

(1) A summary of the benefits available to covered persons; and

(2) The accounting information specified in § 24-11-207.

(b) The annual financial report shall be filed with the Executive Director of the Arkansas Fire and Police Pension Review Board.

History. Acts 1979, No. 700, § 2; 1981, No. 286, § 2; 1983, No. 512, § 1; A.S.A. 1947, § 19-5702.

24-11-207. Annual accountant's report.

(a)(1) The board of trustees of each plan shall annually cause an accountant's report to be prepared covering each plan fiscal year.

(2) The accountant's report shall be prepared by an accountant, or the board of trustees may authorize the city clerk or recorder or treasurer or, in the case of a fire improvement district, the secretary-treasurer of the board of commissioners to prepare the report, but only if the fund's accounts have been kept in accordance with reporting procedures established by the office of the Arkansas Fire and Police Pension Review Board.

(b) Each accountant's report shall include at least the following:

(1)(A) The plan's revenues and expenditures during the year.

(B) The revenues exhibit shall show at least the annual total for each of the following items:

(i) Employee contributions;

(ii) Employer contributions from the state;

(iii) Employer contributions, other;

(iv) Investment income:

(a) Interest and dividends;

(b) Gain or loss on sales;

(c) Other (specify); and

(d) The total of subdivisions (b)(1)(B)(i)-(iii) of this section;

(v) The unrealized gain or loss from the previous year on corporate common or preferred stock, if using the option to include eighty percent (80%) of year-end market value;

(vi) Other (specify); and

(vii) The total of subdivisions (b)(1)(B)(i)-(vi) of this section.

(C) The expenditures exhibit shall show at least the annual total for each of the following items:

- (i) Refunds of employee contributions;
- (ii) Benefits paid;
- (iii) Administrative expenses;
- (iv) Other (specify); and
- (v) The total of subdivisions (b)(1)(C)(i)-(iv) of this section.

(D) The difference between revenues and expenditures is the change in plan reserve assets for the year;

(2)(A) The plan reserve assets.

(B) The reserve assets exhibit at year's end shall show at least the total for each of the following items:

- (i) Cash and bank checking accounts, noninterest-earning;
- (ii) Bank deposits, interest-earning;
- (iii) Savings and loan deposits, interest-earning;
- (iv) Other cash equivalents, maturing in one (1) year or less;
- (v) United States Government securities;
- (vi) Non-United States Government securities;
- (vii) Mortgages;
- (viii) Corporate bonds;
- (ix) Corporate common and preferred stock;
- (x) Other (specify); and
- (xi) The total of subdivisions (b)(2)(B)(i)-(x) of this section.

(C) The assets will be valued on the asset valuation method determined by the Arkansas Fire and Police Pension Review Board in consultation with its actuary;

(3) The accumulated employee contributions at year's end of all nonretired covered employees; and

(4) For a plan covering both volunteer firemen and full-paid firemen, the following items specified in this section, which shall be prepared separately for each of the two (2) groups:

- (A) Subdivision (b)(1)(B)(i) of this section;
- (B) Subdivisions (b)(1)(C)(i) and (ii) of this section; and
- (C) Subdivision (b)(3) of this section;

(c) The accountant shall certify that, in his or her opinion, the information contained in his or her report is an accurate statement of these activities in accordance with the provisions of this subchapter.

History. Acts 1979, No. 700, § 4; 1981, No. 286, § 4; 1983, No. 45, § 1; 1983, No. 512, § 3; 1985, No. 898, § 1; A.S.A. 1947, § 19-5704; Acts 1993, No. 999, § 1; 1999, No. 573, § 1; 1999, No. 711, §§ 1-3; 1999, No. 1293, § 1.

Amendments. The 1999 amendment by No. 573 rewrote (a)(2); and made minor punctuation changes.

The 1999 amendment by No. 711 repealed former (b)(4) and former (b)(6); deleted former (b)(5)(D); and made related changes.

The 1999 amendment by No. 1293 rewrote (b)(2)(C).

24-11-208. Administration of underfunded plans.

(a) The purpose of this section is to provide a method for the funding of benefits in certain underfunded plans. Some of the municipal fire and

police pension funds established under §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, may run out of funds before all of the promised benefits have been paid to their members, retirants, and beneficiaries.

(b)(1) Biennially, in conjunction with the actuarial valuations required by § 24-11-205, the Arkansas Fire and Police Pension Review Board shall identify those plans which are projected to deplete their assets within ten (10) years after the valuation date.

(2) A plan so identified shall be declared a projected insolvent fund.

(c) The Arkansas Fire and Police Pension Review Board shall notify the board of trustees of each projected insolvent fund of its funded status and the options that are available to the fund to protect the benefits of its members, retirants, and beneficiaries.

History. Acts 1995, No. 1266, § 2.

24-11-209. Arkansas Fire and Police Pension Guarantee Fund.

(a) The Arkansas Fire and Police Pension Guarantee Fund shall be created and established for the purpose of providing a state fund to provide financial assistance to certain municipal fire and police pension funds established under §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(b)(1) Some of the municipal fire and police pension funds established under §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, may run out of funds before all of the promised benefits have been paid to their members, retirants, and beneficiaries.

(2) The Arkansas Fire and Police Pension Guarantee Fund may assist the municipal funds, in accordance with the following:

(A) A municipal fire or police pension fund may receive financial assistance from the Arkansas Fire and Police Pension Guarantee Fund if the assistance is approved by the Arkansas Fire and Police Pension Review Board and if the fund complies with subdivision (b)(2)(B) of this section;

(B) If a municipal fire or police pension fund is to receive financial assistance from the Arkansas Fire and Police Pension Guarantee Fund, then:

(i) The municipal fire or police pension fund must apply in writing for financial assistance to the Arkansas Fire and Police Pension Guarantee Fund;

(ii) Upon receipt of the application, the Arkansas Fire and Police Pension Review Board shall notify the board of trustees of the fund,

in writing, that the fund will receive financial assistance from the Arkansas Fire and Police Pension Guarantee Fund if all of the provisions of this subdivision (b)(2)(B) are met;

(iii) In order to receive any financial assistance from the Arkansas Fire and Police Pension Guarantee Fund, the local fund must be receiving a dedicated millage of one (1) mill;

(iv) Any benefits, including refunds of active member contributions to terminating members, due after the date the local fund is receiving assistance from the Arkansas Fire and Police Pension Guarantee Fund, shall not exceed the minimum amount provided by law;

(v) The Arkansas Fire and Police Pension Review Board may review the medical condition of all persons receiving a disability pension from the local fund. If the Arkansas Fire and Police Pension Review Board finds that a person receiving a disability pension from the local fund is no longer disabled, and as a result is no longer entitled to a disability pension, the person shall no longer receive a benefit from the local fund.

(c)(1)(A) The Arkansas Fire and Police Pension Guarantee Fund shall receive a portion of the taxes levied on insurers for the support of fire and police retirement programs by § 23-60-101 et seq. and §§ 24-11-301 — 24-11-303, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813, 24-11-818 — 24-11-821, 26-57-601 — 26-57-605, and 26-57-607, or any other state fund designated for support of fire and police retirement programs in political subdivisions.

(B) The amount received by the Arkansas Fire and Police Pension Guarantee Fund shall be based upon the taxes that are levied on insurers but are not allocated to cities, towns, or fire protection districts qualified to participate in the distribution of the taxes, and shall be the amount so provided in §§ 24-11-302 and 24-11-809.

(2) If a fire or police retirement program, or the political subdivision supporting a retirement program, does not receive a portion of the taxes levied on insurers for the support of fire and police retirement programs due to § 24-11-202, the taxes shall be paid into the Arkansas Fire and Police Pension Guarantee Fund.

(d) The maximum financial assistance that an eligible municipal fire or police pension fund can receive in any year from the Arkansas Fire and Police Pension Guarantee Fund is the remainder, if any, of the amount of the item in subdivision (d)(1) of this section, after subtracting the amount equal to the sum of all the items of subdivision (d)(2) of this section, as follows:

(1) The actuarially recommended contribution for the year, determined as if the fund were providing the minimum benefits required by law; and

(2)(A) Twelve percent (12%) of the covered salaries, or one dollar (\$1.00) per month for each volunteer fire fighter;

(B) The dollar amount of the millage that would be produced if one (1) mill was contributed to the plan;

(C) For police pension funds only, ten percent (10%) of fines and forfeitures under § 24-11-413(a)(5) in the prior year; and

(D) The amount of state insurance turnback funds allocated to the fund in the prior year.

(e)(1) The Arkansas Fire and Police Pension Review Board shall annually recommend to the Chief Fiscal Officer of the State which pension funds shall receive financial assistance from the Arkansas Fire and Police Pension Guarantee Fund and the amount of the assistance.

(2) The Arkansas Fire and Police Pension Review Board shall take into consideration the amount of income expected by the Arkansas Fire and Police Pension Guarantee Fund when determining the amount of financial assistance available to the local funds and considering whether the local fund would be better served by consolidating into the Arkansas Local Police and Fire Retirement System.

(3) The Arkansas Fire and Police Pension Review Board shall recommend financial assistance from the Arkansas Fire and Police Pension Guarantee Fund according to the following priorities:

(A) Projected insolvent funds which are not expected to have enough funds to provide benefits for the current year;

(B) Projected insolvent funds which are expected to deplete their funds within the next three (3) years;

(C) Projected insolvent funds which are expected to deplete their funds within the next ten (10) years;

(D) Funds that are determined to be actuarially unsound by the Arkansas Fire and Police Pension Review Board; and

(E) Other pension funds covering municipal police officers and fire fighters in Arkansas, without regard to subsection (d) of this section, or without regard to subdivision (b)(2)(B)(iii) of this section for funds administered by the Arkansas Local Police and Fire Retirement System.

(f) The executive director and staff of the Arkansas Fire and Police Pension Review Board shall serve as the executive director and staff of the Arkansas Fire and Police Pension Guarantee Fund.

(g) Any expenses required to administer the Arkansas Fire and Police Pension Guarantee Fund shall be determined and paid by the Arkansas Fire and Police Pension Review Board out of the Arkansas Fire and Police Pension Guarantee Fund.

(h)(1) The Arkansas Fire and Police Pension Review Board shall report to the General Assembly on the condition of the Arkansas Fire and Police Pension Guarantee Fund.

(2) The report shall be due by December 31 of each even-numbered year.

(3) The report shall include the amount of financial assistance provided during the last two (2) years and the expected tax allocation for the next two (2) years.

History. Acts 1995, No. 1266, § 3.

A.C.R.C. Notes. Acts 1995, No. 1266,

§ 3 provided, in part, that the Arkansas Fire and Police Pension Guarantee Fund

shall be created on and after January 1, 1995, and the Fund shall receive a portion of the taxes levied on insurers, pursuant to the sections listed in (c)(1)(A), on and after January 1, 1995.

24-11-210. Requirements for qualified plans under the Internal Revenue Code.

(a) This section shall be considered a part of the plan of each pension and relief fund that is subject to this subchapter. Each plan is intended to qualify under Section 401(a) of the Internal Revenue Code and is for the exclusive benefit of its members, retired members, and their survivors.

(b)(1) A member, retired member, or survivor of a member or retired member of a firemen's or policemen's pension and relief fund may not accrue a retirement pension, disability retirement allowance, death benefit allowance, Deferred Retirement Option Plan benefit, or any other benefit under the fund in excess of the benefit limits applicable to the fund under Section 415 of the Internal Revenue Code. The Arkansas Fire and Police Pension Review Board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess.

(2) If total benefits under this fund and the benefits and contributions to which any member is entitled under any other qualified plans maintained by the employer that employs the member would otherwise exceed the applicable limits under Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from the fund shall be reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code, unless the employer has provided other rules that satisfy those requirements.

(c) Any member or survivor who receives any distribution that is an eligible rollover distribution as defined by Section 402(c)(4) of the Internal Revenue Code is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or survivor's choice on providing direction to the pension and relief fund regarding that transfer in accordance with procedures established by the board of trustees of the pension and relief fund.

(d) The total salary taken into account for any purpose for any member or retired member who is an ineligible participant under any firemen's or policemen's pension and relief fund may not exceed one hundred fifty thousand dollars (\$150,000) a year. This dollar limit shall be adjusted from time to time in accordance with guidelines provided by the United States Secretary of the Treasury. For purposes of this subsection, an "eligible participant" is a person who first became a member before 1996, and an "ineligible participant" is a member who is not an eligible participant.

(e) In the event that a firemen's or policemen's pension and relief fund is terminated or partially terminated or employer contributions to the fund are discontinued completely, the rights of the members to their accrued benefits to the extent funded shall be nonforfeitable.

(f) Distributions of benefits must begin not later than April 1 of the year following the calendar year during which the member becomes

seventy and one-half (70 ½) years of age or terminates employment with the employer, whichever is later, and must otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

(g) If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in this subchapter, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the fund's actuary and approved by the board. The actuarial assumptions being used at any particular time shall be treated for all purposes as a part of the rules and regulations of the pension and relief fund. The actuarial assumptions may be changed by the actuary if approved by the board, but a change in actuarial assumptions may not result in any decrease in benefits accrued as of the effective date of the change.

(h)(1) Notwithstanding any other provision in this subchapter to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(2) Subdivision (h)(1) of this section shall not preclude any person from receiving more generous treatment for military service pursuant to state law or the provisions of any firemen's or policemen's pension and relief fund if such treatment is not inconsistent with the tax qualification requirements.

History. Acts 1999, No. 670, § 2.
U.S. Code. Sections 401, 402, 414, and 415 of the Internal Revenue Code, re-

ferred to in this section, are codified as 26 U.S.C. §§ 401, 402, 414, and 415, respectively.

24-11-211. Arkansas Policemen's Pension Supplement Program.

(a)(1) There is hereby created the Arkansas Policemen's Pension Supplement Program to be administered by the Arkansas Fire and Police Pension Review Board.

(2) Local and municipal police officers provide valuable services to the citizens of this state by risking their lives and health to protect the lives and property of our citizens. Upon their retirement or participation in a deferred retirement option plan, these police officers are provided retirement benefits through local police pension funds. These retired police officers and, if deceased, their survivors are expected to pay for all kinds of expenses after their retirement, some which are unexpected and can be extremely expensive. A program by which the state can provide a modest annual supplement to retirement benefits to defray unexpected expenses for retired police officers and their survivors will benefit all local police officers, local governments, and all citizens of the state.

(3) As used in this section, the term "retired police officers" shall include police officers who are retired from active service and officers who remain actively employed while participating in the Arkansas Police Officers' Deferred Option Plan under a policemen's pension and relief fund.

(b) The Policemen's Pension Supplement Program Fund shall be created and established for the purpose of providing a state fund to provide financial assistance to certain retired police officers and their survivors who are receiving pensions from policemen's pension and relief funds. It shall be funded by that portion of those unallocated premium taxes levied on insurers for the support of police retirement programs which is transferred to the control of the board pursuant to § 24-11-302(f)(4).

(c) The board shall administer the program and make the payments called for under the program, including formulating necessary rules, procedures, and forms. The board shall retain one percent (1%) of the funds transferred for administrative expenses of the program.

(d) Retired police officers and survivors shall be eligible for the pension supplement under this program as follows:

(1) A retired police officer or survivor receiving retirement benefits from a local policemen's pension and relief fund of less than four hundred dollars (\$400) per month shall receive a supplement under the program in an amount equivalent to raise his or her total benefits plus the supplement to four hundred dollars (\$400) per month or the amount in subdivision (d)(2) of this section, whichever is greater; and

(2) A retired police officer or survivor currently receiving retirement benefits from a local policemen's pension and relief fund of four hundred dollars (\$400) or more per month shall receive a supplement under the program of fifty dollars (\$50.00) per month.

(e) Any retired police officers or their survivors may submit to the board an application for the pension supplement in a form specified by the board. The application form must be submitted between July 1 and July 31 of each year. Following July 31 of each year, the board shall review the applications submitted by the due date and shall pay to each eligible person an amount each month thereafter computed in accordance with subsection (d) of this section. The payment shall be treated for all purposes as a supplement to the retirement benefits received by the person.

(f) Amounts transferred to the board pursuant to § 24-11-302(f)(4) which exceed the amounts required to be paid by the board under the program shall be paid by the board to the State Treasury on or after July 1 of each fiscal year following the board's payments required by subsection (e) of this section.

(g) This program shall become effective July 1, 1999. The first payments may be made under this program beginning July 31, 1999, and the first transfer pursuant to § 24-11-302(f)(4) shall occur on July 25, 1999, and on each July 25 thereafter.

History. Acts 1999, No. 1452, § 3; 2001, No. 1543, §§ 1, 2.

Amendments. The 2001 amendment redesignated former (a) as present (a) and made related changes; in (a)(2), substituted "from active service" for "or partici-

pation in a deferred retirement option plan," and substituted "if deceased, their survivors" for "their survivors, if deceased"; added (a)(3); inserted "or the amount in subdivision (d)(2) of this section, whichever is greater" in (d)(1); and

substituted “fifty dollars (\$50.00)” for “fifteen dollars (\$15.00)” in (d)(2).

24-11-212. Future supplement funds.

(a) A Future Supplement Fund-Police and a Future Supplement Fund-Fire are created for the purpose of providing cost of living assistance and minimum benefit amount assistance to police and fire pension and relief funds.

(b) The future supplement funds shall be administered by the Arkansas Fire and Police Pension Review Board.

(c) Each year the future supplement funds will receive moneys from:

(1) The portion of each location’s premium tax allocation based on number of members as of December 31, 2000, who are no longer receiving benefits and these amounts as defined in §§ 24-11-302(c)(3)(C) and 24-11-810(a)(5)(C); and

(2) The portion of the increase in the amount allocated to general revenues under §§ 24-11-302 and 24-11-810 as this amount is defined in those sections.

(d) The General Assembly shall in each regular session decide the method and amount to be distributed from the future supplement funds.

(e) At the time that there are no longer any members covered by local police and fire pension and relief funds, any remainder of the future supplement funds would be transferred to the Arkansas Local Police and Fire Retirement System.

History. Acts 2001, No. 1543, § 3.

SUBCHAPTER 3 — POLICE PENSION AND RELIEF FUNDS GENERALLY

SECTION.

24-11-301. Appropriation of tax revenues from foreign insurers.

24-11-302. Cities and towns qualified to participate — Reports.

SECTION.

24-11-303. Payments.

Cross References. Emergency duty, effect on retirement benefits, § 12-75-130.

Effective Dates. Acts 1981, No. 270, § 6: Jan. 1, 1983.

Acts 1985, No. 304, § 3: Mar. 12, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that current law provides for distribution of insurance turnback for the support of individual police pension and relief funds, and for police officers covered under the Arkansas Local Police and Fire Retirement System, but that the certification process for the distribution of the tax

is cumbersome and unclear, and that this Act is necessary to clarify the intent of existing law providing for the support of these retirement programs. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 992, § 7: Jan. 1, 1986.

Acts 1995, No. 1266, § 7: Jan. 1, 1995.

Acts 1999, No. 1452, § 7: July 1, 1999. Emergency clause provided: “It is hereby

found and determined by the Eighty-second General Assembly that many of the retired police officers are not receiving adequate benefits, that often times, these officers have few financial resources outside of their pensions, that the policemen's pension and relief funds are often not able to pay full benefits to these officers because of their unfounded liabilities, and that a program which supplements the benefits of these retired officers which does not come from revenues of the pension funds themselves will benefit all citizens of the state and it is necessary to implement the changes in benefits at the beginning of the current fiscal year and therefore this act should have effect at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1570, § 10: Apr. 15, 1999. The emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Firemen's and Police Officers' Pension and Relief Fund need to be amended concerning the distribution and allocation of funds and that the effective administration of State government makes it necessary for these changes to begin immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it

shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1540, § 5: Apr. 12, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the provisions of this act must be implemented before the funds described herein are next disbursed in order to insure the fiscal well being of the beneficiaries of the Police and Fire Pension and Relief Funds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1701, § 10: April 2, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the provisions of this act must be implemented before the funds described herein are next disbursed in order to insure the fiscal well-being of the beneficiaries of the Police and Fire Pension and Relief Funds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-11-301. Appropriation of tax revenues from foreign insurers.

(a)(1) Sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the total tax revenues derived from premium taxes paid to the State of Arkansas by alien and foreign insurance companies upon premiums collected by the insurance companies upon insurance contracts written on motor vehicles, the licensed addresses of which are qualified cities or towns wherein the motor vehicles are insured against the perils of physical damage or the owner or operators of the motor vehicles are insured

against legal liability arising out of the use, ownership, or operation of the motor vehicles, is appropriated and set aside for the:

(A) Use and benefit of all duly qualified police officers' pension and relief funds;

(B) Administrative and actuarial expenses of the Arkansas Fire and Police Pension Review Board;

(C) Arkansas Fire and Police Pension Guarantee Fund; and

(D) Arkansas Policemen's Pension Supplement Program.

(2) The premium taxes collected in this subsection shall be placed in a fund combined with the premium taxes collected pursuant to § 24-11-809. The combined fund shall be entitled the "Firemen's and Police Officers' Pension and Relief Fund".

(3)(A)(i) The remaining revenues collected pursuant to §§ 23-60-102, 24-11-301, 24-11-302, 24-11-809, 24-11-810, 26-57-601 — 26-57-605, and 26-57-607 shall be distributed to the Firemen's and Police Officers' Pension and Relief Fund and to the State of Arkansas as general revenues.

(ii) Revenues distributed to the State of Arkansas as general revenues are subject to the allocations enumerated in § 24-11-302(f).

(B) The revenues shall be distributed in such a manner that the Firemen's and Police Officers' Pension and Relief Fund and the general revenue fund will each receive distributions of no less than they received in fiscal year 1999, except that:

(i) If the revenues to be distributed in a subsequent year are less than the revenues distributed in 1999, then the distributions to each shall be reduced proportionately; and

(ii) If additional police departments become eligible for distributions from the Firemen's and Police Officers' Pension and Relief Fund, the base amount for the state shall be reduced in proportion to the population in the area served by the police department to the portion of the population of the state not covered by a police department receiving a distribution from the fund.

(C) Except as provided in subdivision (a)(3)(B) of this section, the portion distributed to the Firemen's and Police Officers' Pension and Relief Fund shall be based on the ratio percentage of the total population of the cities or towns qualified to participate in the fund in comparison to the total population of the State of Arkansas. The remaining percentage shall be distributed to the General Revenue Fund of the State of Arkansas.

(b) The amount of the tax revenues attributable to the fire peril of physical damage insurance shall not be included.

(c) The payment for the administrative and actuarial expenses of the Arkansas Fire and Police Pension Review Board shall be made prior to the disbursements to the eligible political subdivisions.

History. Acts 1981, No. 270, § 2; 1985, No. 992, § 3; A.S.A. 1947, § 66-2305; Acts 1999, No. 1452, § 1; 1999, No. 1570, § 1; 2001, No. 1540, § 3.

A.C.R.C. Notes. Acts 1999, No. 1570,

§ 6 provided: “The Department of Finance and Administration is authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions of §§ 24-11-301, 24-11-302, 24-11-809, and 24-11-810.”

Publisher’s Notes. Acts 1981, No. 270, § 1, expressed the legislative determination that the several cities providing retirement and disability benefits to the members of their police departments or survivors of members were experiencing difficulty in discharging calls upon these

funds for benefits and that additional funds must be made available to these funds and their beneficiaries.

Amendments. The 1999 amendment by No. 1394 added (a)(2)-(5).

The 1999 amendment by No. 1452 added “and for the Arkansas Policemen’s Pension Supplement Program” at the end of (a)(1).

The 1999 amendment by No. 1570 added (a)(2)-(a)(5).

The 2001 amendment rewrote (a).

24-11-302. Cities and towns qualified to participate — Reports.

(a) Each city or town having a police officers’ pension and relief fund that is organized pursuant to any existing statute of this state and each city or town that covers its police department under the Arkansas Local Police and Fire Retirement System shall be qualified to participate in the distribution of the funds described and appropriated by this subchapter.

(b) The allocation of funds to each qualified city or town pursuant to § 24-11-301 shall be subject to the following conditions:

(1) Each calendar year the Arkansas Fire and Police Pension Review Board shall review its previous calendar year distribution of funds to each qualified city or town prior to disbursement to each of these qualified areas. This review shall comply with subdivisions (d)(4) and (5) of this section;

(2) The certification of any new city or town to participate in the Firemen’s and Police Officers’ Pension and Relief Fund shall be considered in the board’s assessment each calendar year of the allocation of the disbursement of the funds pursuant to subdivisions (d)(4) and (5) of this section; and

(3) Any change in the legal description of any city or town will be considered in the board’s assessment each calendar year. Any changes shall be reported to the board by December 15 of each calendar year. The associated population change caused by a change in legal description shall also be considered.

(c)(1) The revenues collected pursuant to §§ 23-60-102, 24-11-301, 24-11-302, 26-57-601 — 26-57-605, and 26-57-607 and distribution in accordance with this section shall be allocated to each qualified city or town in a proportion determined by evaluation of the following factors:

(A) The legal description of the metes and bounds of the city or town. The legal description shall be based on standard physical features of the area. If the legal description cannot be based on standard physical features, a Global Positioning System survey shall be conducted to determine the boundaries;

(B) The preferred description of the area will be based on standard physical features. Each local department shall change the department’s description of metes and bounds to the standard physical features’ description; and

(C) A census population assessment in the city or town.

(2)(A) The mayor or other qualified representative of each city or town shall certify to the board the accuracy of the metes and bounds legal description of the area.

(B) The metes and bounds legal description shall be determined by a surveyor licensed in the State of Arkansas, a preexisting map held by the city, town, or fire protection district or by the Institute for Economic Advancement at the College of Business Administration at the University of Arkansas at Little Rock's Geographic Information Systems Lab.

(C) The population of the area shall be determined by the Census State Data Center at the Institute for Economic Advancement at the College of Business Administration at the University of Arkansas at Little Rock's Geographic Information Systems Lab.

(3)(A) An actuary certified by the Society of Actuaries shall evaluate the information submitted pursuant to subsection (c) of this section to determine the amount of turnback funds to be directed to an area based on the following formula:

(i) The legal description of the metes and bounds shall be considered as forty percent (40%) of the calculation; and

(ii) The population of the area shall be considered as sixty percent (60%) of the calculation.

(B) The actuarial assessment shall apply the corresponding ratio of these factors in calculating the exact amount of funds that should be allocated to each city, town, or fire protection district.

(C) The amount allocated to each location shall be reduced by the amount defined in this subdivision (c)(3)(C) for the Future Supplement Fund-Police under § 24-11-212. The amount allocated to the Future Supplement Fund-Police is the amount allocated to a location in this subsection multiplied by the ratio of the number as determined in subdivision (c)(3)(C)(i) of this section to the number as determined in subdivision (c)(3)(C)(ii) of this section as follows:

(i) The number of active, retiree, and beneficiary members of the pension and relief fund as of December 31, 2000, minus the number of active, retiree, and beneficiary members of the pension and relief fund as of the most recent December 31; and

(ii) The number of active, retiree, and beneficiary members of the Arkansas Local Police and Fire Retirement System plus the number of active, retiree, and beneficiary members of the pension and relief fund as of December 31, 2000;

(iii) In the case of multiple beneficiaries of a single deceased member, those beneficiaries shall be counted as one (1) for the purposes of this subdivision (c)(3)(C);

(iv) In the case of paid service and volunteer service members in one location, one (1) paid service member shall be equal to five (5) volunteer service members for the purposes of this subdivision (c)(3)(C).

(d)(1) All cities, towns, or fire protection districts participating in the Firemen's and Police Officers' Pension and Relief Fund as of April 15,

1999, shall receive at least seventy-five percent (75%) of its current level of premium tax distributions upon conversion to the distribution method prescribed in subsection (c) of this section. This threshold percentage may be used as a phase-in tool by the board to accommodate the conversion of distribution of a period of five (5) years from April 15, 1999. The distribution of these funds shall be subject to subsection (b) of this section.

(2) All cities and towns having police departments organized pursuant to §§ 24-11-101 — 24-11-830 that have provided the information required in subsection (c) of this section to the board shall qualify for participation in the distribution of premium taxes for the Firemen's and Police Officers' Pension and Relief Fund under the board.

(3) On or before December 15, 1985, of each calendar year until the year 2000, the board shall certify to the Insurance Commissioner those cities and towns that have organized police departments qualified to participate in the distribution of premium taxes described by §§ 24-11-301 — 24-11-830.

(4) On or before June 15, 2001, the board shall certify to the Department of Finance and Administration those cities and towns that qualify for distribution of premium taxes collected under §§ 23-60-102, 24-11-301, 24-11-302, 26-57-601 — 26-57-605, and 26-57-607 for the 2000 tax year pursuant to the amended section determining qualification based on metes and bounds and population of the area. Certification shall be provided to the Department of Finance and Administration on all entities participating in the pension plan, including, but not limited to, those entities participating prior to April 15, 1999.

(5) On or before June 15, 2001, the board shall certify to the department the exact amount of tax revenues each city and town is entitled to receive for the calendar year in which coverage began pursuant to subsection (c) of this section. Such information shall be provided each calendar year thereafter on or before June 15.

(6) The eligibility of the cities or towns shall be continuous for a ten-year period without recertification unless otherwise directed by the board. The first year of implementation shall require a nine-year cycle from June 15, 2001. Thereafter each city or town shall resubmit the information required in subsection (c) of this section every ten (10) years beginning on December 15, 2010.

(e) The Arkansas Fire and Police Pension Review Board created by § 24-11-203 is directed, and it shall be its duty, to identify those cities and towns to certify them to the Insurance Commissioner on or before December 15 of each calendar year until the year 2000, indicating that they are qualified to participate in the distribution of those funds described and appropriated by this subchapter. Subsequent to the year 2000, for each political subdivision that covers a police department under the Arkansas Local Police and Fire Retirement System, the board shall certify eligibility for the tax moneys to the department on or before December 15 of the calendar year.

(f)(1) All taxes that are levied on insurers that are allocated to general revenues under § 24-11-301(a)(3) shall first be allocated to the

Arkansas Fire and Police Pension Guarantee Fund and next to the Policemen's Pension Supplement Program Fund as provided for in subdivision (f)(4) of this section and then to general revenues.

(2) Funds shall be distributed by the Chief Fiscal Officer of the State to the Arkansas Fire and Police Pension Guarantee Fund upon the recommendation of the Arkansas Fire and Police Pension Review Board in an amount necessary to fund the priority categories defined by § 24-11-209(e)(3)(A)-(D).

(3) Funds may be distributed by the Chief Fiscal Officer of the State to the Arkansas Fire and Police Pension Guarantee Fund upon the recommendation of the Arkansas Fire and Police Pension Review Board for plans in the priority category defined by § 24-11-209(e)(3)(E).

(4) After transfers are made to cover funds distributed under subdivisions (f)(2) and (3) of this section and the portion of those premium taxes set aside for transfer to the State Police Retirement Fund under § 24-6-209(b), the Director of the Department of Finance and Administration is directed to make annual transfers to the Policemen's Pension Supplement Program Fund on or before July 25, 1999, and each year thereafter as certified by the Arkansas Fire and Police Pension Review Board on July 1 each year as the amount needed to pay the expenses of and to make payments to the eligible retired police officers and survivors under the Arkansas Policemen's Pension Supplement Program for the coming year of the program.

(5) Fifty percent (50%) of the increase in the amount allocated to general revenues under this section, using the dollar amount allocated in fiscal year 1999-2000 as the base amount, shall be transferred to the Future Supplement Fund-Police under § 24-11-212.

History. Acts 1981, No. 270, §§ 3, 4; 1983, No. 664, § 1; 1985, No. 304, § 1; A.S.A. 1947, §§ 66-2306, 66-2307; Acts 1995, No. 1266, § 5; 1997, No. 119, § 1; 1999, No. 1452, § 2; 1999, No. 1570, § 2; 2001, No. 1539, § 1; 2001, No. 1540, § 1; 2001, No. 1543, § 4; 2001, No. 1701, §§ 2-4.

A.C.R.C. Notes. Acts 1999, No. 1570, § 6, provided: "The Department of Finance and Administration is authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions of §§ 24-11-301, 24-11-302, 24-11-809, and 24-11-810."

Amendments. The 1997 amendment, in (h)(2), substituted "shall" for "may" and added the language beginning "in an amount"; and added (h)(3).

The 1999 amendment by No. 1452 added the subdivision designated herein as (j)(3); in present (j)(1), substituted "shall first" for "may" and added the language beginning "and next to the."

The 1999 amendment by No. 1570 rewrote this section.

The 2001 amendment by No. 1539 substituted "visible" for "physical" twice in (c)(1)(A); and inserted (c)(1)(B) and made related changes.

The 2001 amendment by No. 1540 deleted (f) through (i); rewrote former (j) and redesignated it as present (f).

The 2001 amendment by No. 1543 inserted (b)(3), present (c)(1)(B) and (c)(3)(C) and made related changes; substituted "visible" for "physical" twice in (c)(1)(A); deleted "and the population information" at the end of (c)(2)(A); deleted (f) through (i); rewrote former (j) and redesignated it as present (f); and made minor stylistic changes.

The 2001 amendment by No. 1701 added (b)(3) and made related changes; deleted "and the population information" at the end of (c)(2)(A); and rewrote (j).

24-11-303. Payments.

(a) Payment by the companies of their respective portions of the tax described and appropriated by this subchapter shall be made to each qualified city or town on or before August 1 of each calendar year.

(b) All funds received pursuant to the provisions of this subchapter by any city or town shall be turned over to the board of trustees of that city or town's police officers' pension and relief fund and shall be administered by the board as other funds belonging to the fund.

(c) Premium taxes collected from risks not principally garaged in a qualified city or town shall not be affected by this subchapter.

History. Acts 1981, No. 270, § 5;
A.S.A. 1947, § 66-2308.

SUBCHAPTER 4 — POLICE PENSION AND RELIEF FUNDS — CITIES OF THE FIRST CLASS

SECTION.

- 24-11-401. Applicability.
- 24-11-402. Vote to effect subchapter.
- 24-11-403. Creation of fund — Tax levy.
- 24-11-404. Tax levy for pensions in cities of first and second class.
- 24-11-405. Board of trustees.
- 24-11-406. Administration of small funds by Arkansas Local Police and Fire Retirement System.
- 24-11-407. List of retired police officers.
- 24-11-408. Treasurer as custodian of fund.
- 24-11-409. Deposit of moneys.
- 24-11-410. Investment.
- 24-11-411. Payments.
- 24-11-412. Report on condition of fund.
- 24-11-413. Moneys added to fund — Contributions.
- 24-11-414. [Repealed.]
- 24-11-415. Proceeds derived from sale of confiscated goods.
- 24-11-416. Proration where fund insufficient.
- 24-11-417. Subjection of fund to legal process.
- 24-11-418. Credited service — Purchase for military service by past or present members generally.
- 24-11-419. Credited service — Purchase of military service by ac-

SECTION.

- tive police in cities of 75,000.
- 24-11-420. [Repealed.]
- 24-11-421. Credited service — Restoration.
- 24-11-422. Benefits — Voluntary retirement.
- 24-11-423. Benefits — Disability retirement.
- 24-11-424. Benefits — Retirant receiving less than one-half salary.
- 24-11-425. Benefits — Death of active or retired member.
- 24-11-426. Optional vesting rights policy.
- 24-11-427. [Repealed.]
- 24-11-428. Return of salary deductions.
- 24-11-429. Vacation pay.
- 24-11-430. Funeral expenses.
- 24-11-431. [Repealed.]
- 24-11-432. Additional benefits for certain officers hired prior to January 1, 1983.
- 24-11-433. Police pension funds — Partial disability pensions.
- 24-11-434. Deferred retirement option plan.
- 24-11-435. Buy-out option.
- 24-11-436. Credit for military service.
- 24-11-437. Credited service — Purchase of former law enforcement service.
- 24-11-438. Police-related service.

A.C.R.C. Notes. References to "this subchapter" in §§ 24-11-401 — 24-11-430 may not apply to §§ 24-11-432 — 24-11-435, which were enacted subsequently.

Preambles. Acts 1941, No. 16 contained a preamble which read: "Whereas, at the general election held November 5, 1940, the people of the State of Arkansas adopted Amendment No. 31 to the Constitution of the State of Arkansas authorizing cities of the first and second class to vote a tax on the assessed value of real and personal property within such city not to exceed one mill on the dollar to pay pensions to retired policemen, and pensions to the widows and minor children of deceased policemen and widows and minor children of deceased retired policemen, in such manner as shall be provided by law;

"Therefore...."

Effective Dates. Acts 1937, No. 250, § 24: effective on passage.

Acts 1939, No. 11, § 3: approved Jan. 24, 1939. Emergency clause provided: "Because of the fact that there are needy members of the Police Departments of the Cities of this State who are entitled to receive pensions under Act 250 of the Acts of the General Assembly of 1937, and funds provided to pay such pensions are insufficient, resulting in deprivation to those entitled to relief, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage."

Acts 1939, No. 196, § 3: Mar. 9, 1939. Emergency clause provided: "On account of the immediate need of disabled and superannuated policemen of the cities affected by this act, and there being no provision for their relief an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage, and approval."

Acts 1941, No. 16, § 5: approved Jan. 30, 1941. Emergency clause provided: "The method of levying a tax on the real and personal property of cities for the benefit of the Policemen's Pension and Relief Fund, under Act No. 25 of the Acts of the Arkansas General Assembly for the year 1939, having been declared unconstitutional by the Supreme Court of the

State of Arkansas, it is ascertained and declared to be a fact that in many cities of this state the Policemen's Pension and Relief Fund is depleted; that in such cities there are many disabled and retired policemen, and widows and minor children of deceased policemen, and widows and minor children of deceased retired policemen, without any other source of income, and in need of the assistance that was contemplated under Act No. 25 of the Acts of 1939; that the existing laws make no provision for the respective municipalities to provide for pensions for such persons; that the passage of this act will enable such municipalities to vote on the question of a tax levy for policemen retirement salaries and pensions, and pensions to widows and minor children of deceased policemen and widows and minor children of deceased retired policemen; therefore, in order to protect the public peace, health and safety of the citizenship of such municipalities, an emergency is declared to exist, and all laws and parts of laws in conflict herewith, be, and the same are hereby repealed, and this act shall take effect and be in force from and after its passage."

Acts 1941, No. 82, § 3: effective on passage.

Acts 1945, No. 176, § 4: approved Mar. 2, 1945. Emergency clause provided: "This act being necessary for the immediate protection of the public peace, health and safety, an emergency is hereby declared and this act shall be in full force and effect from and after its passage."

Acts 1967, No. 127, § 4: approved Feb. 22, 1967. Emergency clause provided: "The General Assembly of the State of Arkansas hereby finds and declares that the present pension provisions are not adequate to provide for a policeman's dependents; that the cost of living is rapidly rising and that in some cases the pensions provided under this Act are the only means of support that such dependents have; that it will require additional time for the Board of Trustees of the Policemen's Pension and Relief Fund to make the necessary changes in administrative procedures to effectuate the provisions of this Act; that it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the pub-

lic peace, health and safety, shall be in effect from and after the date of its approval and passage.”

Acts 1969, No. 68, § 3: Feb. 18, 1969. Emergency clause provided: “It is hereby found and determined by the General Assembly that in order to attract qualified and capable policemen, it is necessary to offer an adequate pension in the case of retirement; that under the present provisions, policemen in border cities are required to contribute only two and one-half percent of their monthly salaries to such pension fund instead of four percent as in the case in other cities; that an increase in the amount of contributions to such fund will permit the payment of a more adequate pension to such policemen upon retirement; and that in order to provide adequate funds to grant sufficient pensions for retired policemen, it is necessary that this Act become effective immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall become effective from and after its passage and approval.”

Acts 1969, No. 288, § 3: Mar. 21, 1969. Emergency clause provided: “It has been determined by the General Assembly of the State of Arkansas that there are a number of policemen of advanced age who retired several years ago prior to the inflation which has occurred in recent years and that the amount of the pensions drawn by them is so low that many of them are in dire need. An emergency is therefore declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its approval.”

Acts 1981, No. 486, § 4: Jan. 1, 1982.

Acts 1981, No. 987, § 3: became law without Governor's signature, Apr. 8, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that increased retirement longevity benefits are necessary in certain instances to retain qualified police officers, and that this Act is immediately necessary to provide for such increased benefits. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall

be in full force and effect from and after its passage and approval.”

Acts 1983, No. 10, § 4: Feb. 1, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 438 of 1981 has been interpreted as applying only to towns of less than 8,000 population; that it was the intent of the General Assembly to allow all funds to grant the increased benefits provided herein; and that this Act is necessary to carry out the legislative intent previously expressed and to promote uniformity among all Policemen's Pension and Relief Funds. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1983, No. 44, § 4: Feb. 3, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 582 of 1981 which increased benefits payable to survivors of police officers did not clearly state its applicability to current recipients; that the various local systems have interpreted the law differently; and that this Act is necessary to carry out the legislative intent expressed in 1981 and to promote uniformity among these pension plans. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1983, No. 462, § 3: Mar. 15, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that a small portion of retired policemen retired under a law which did not allow them to receive one-half (½) the pay attached to their rank at the time of retirement and that such benefits are totally inadequate today; and that this Act is immediately necessary to increase such benefits. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1983, No. 653, § 2: July 1, 1983.

Acts 1985, No. 391, § 3: Mar. 18, 1985. Emergency clause provided: “It is hereby found and determined by the General As-

sembly that the minimum monthly benefit for retired policemen should be two hundred and fifty dollars (\$250.00); that some retired policemen receive less than two hundred and fifty dollars (\$250.00) per month in retirement benefits; and that this Act is immediately necessary to increase such benefits. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 405, § 4: Mar. 25, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that an active member of a police pension fund should be allowed to serve on a local pension board when no retirant is available to serve; that local police pension boards of trustees are uncertain of their composition when no retirant is available to serve; and that this act is immediately necessary to end such uncertainty. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 152, § 7: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that confusion exists regarding whether bank trust officers may serve as investment advisers to local police and fire pension funds; that it was never the intent that bank trust officers not be authorized to so act; that this Act clarifies the law to specifically authorize bank trust officers to serve as investment advisers to the local police and fire pension funds; and that this Act should be given effect immediately in order to eliminate the confusion. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 546, § 8: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that allowing unused, accrued sick leave to be counted as salary for retirement purposes will enhance the municipal police officers' and fire fighters

program for retirement; that police officers and fireman will thereby be motivated to work more productive hours with less absenteeism; and that the use of unused, accrued sick leave for retirement salaries is necessary for the most efficient and effective operation of the municipal police and fire departments of Arkansas. Therefore, in order to achieve the maximum use of municipal police officers' and fire fighters services, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 1289, § 6: Apr. 21, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas Code 24-11-413 provided that ten percent (10%) of fines and forfeitures collected by city police departments are to be deposited into the police pension fund; that some police departments have also collected costs and deposited in those funds; that this act clarifies the law to specifically require ten percent (10%) of those costs to be deposited into the funds; and that until this act takes effect the law is unclear on this point. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1012, § 5: became law without Governor's signature. Noted Apr. 5, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that some cities have police retirement plans which no longer accept new members and which are overfunded; that the surplus revenues should be put to beneficial use; that this act will establish the mechanism for putting those funds to beneficial use for the citizens of the city; and that this act should go into effect as soon as possible to provide desperately needed funds to the municipalities affected hereby. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 978, § 7: Mar. 31, 1999. Emergency clause provided: It is hereby

found and determined by the Eighty-second General Assembly that Act 1241 of 1997 allowed the surviving spouses of police officers killed while in the official performance of his duties to continue to receive benefits if they remarried, that Act 1241 of 1997 became effective on August 1, 1997, and that surviving spouses of police officers killed while on duty prior to the effective date of Act 1241 lost retirement benefits upon any remarriage and should be able to benefit from this subsequent change in the law by making it retroactive. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the

period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1457, § 6: July 1, 1999. Emergency clause provided: "It is found and determined by the General Assembly that this act revises the law concerning the Arkansas Police Officers' Deferred Option Plan and the Arkansas Fire Fighters' Deferred Retirement Option Plan; and that, for the effective administration of this act, its provisions should become effective on July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

CASE NOTES

Construction.

This subchapter should be liberally construed in favor of those to be benefited.

Looper v. Gordon, 201 Ark. 841, 147 S.W.2d 24 (1941).

24-11-401. Applicability.

This subchapter shall not apply to any city that had a policemen's pension and relief fund on June 10, 1937.

History. Acts 1937, No. 250, § 21; Pope's Dig., § 9876; A.S.A. 1947, § 19-1820.

24-11-402. Vote to effect subchapter.

(a) The provisions of this subchapter shall be suspended and inoperative in any city affected by the provisions of this subchapter until made available by a vote favorable thereto of the majority of qualified electors of the cities participating in any election on the question and held at the time of any election in the city, whether state, city, special, or federal, or at a special election for the purpose of voting on the question.

(b) The election may be held in connection with the first general city election following the passage and approval of this subchapter, but the failure to submit at that city or other election shall not defeat the right of submission at any subsequent election.

(c) Upon filing with the county board of election commissioners, not later than ten (10) days before the date of the election, the petition signed by twenty (20) or more qualified electors of the city affected and

praying that the question of police officers’ pensions be submitted, it shall be the duty of the county board of election commissioners to place the question upon the ballot.

(d) In the event that for any reason the question of policemen’s pension was not voted upon in the next general city election after June 10, 1937, the question may be submitted at any other general or special election held in the city as provided in this section.

(e) The question on the ballot shall be as follows:
“FOR Police Officer’s Pension ☐
AGAINST Police Officer’s Pension

History. Acts 1937, No. 250, § 22; Pope’s Dig., § 9877; A.S.A. 1947, § 19-1821.

Publisher’s Notes. In reference to the term “passage and approval of this sub-

chapter,” Acts 1937, No. 250 was signed by the Governor on March 16, 1937, and became effective on June 10, 1937. Emergency clause invalid.

24-11-403. Creation of fund — Tax levy.

(a) Annually, a tax not to exceed one (1) mill on the dollar of all taxable property in any cities or towns in this state is levied as a fund for pensioned and superannuated members of the police department, for the surviving spouses and minor children or dependent parents of deceased members of the police department, and to relieve the members in case of temporary disability.

(b) This fund shall be known as the policemen’s pension and relief fund and shall be collected as other taxes are collected and shall be turned over to the board of trustees of the policemen’s pension and relief fund, as provided in this section.

(c) In those cities which do not have a policemen’s pension and relief fund but which cover their police officers under the Arkansas Local Police and Fire Retirement System, the tax, once approved by a majority of those voting on the question, shall be collected annually as other taxes are collected and shall be turned over to each city to be applied to each city’s account in that system, in such manner and amounts as determined by the board of trustees of that system.

History. Acts 1937, No. 250, § 1; § 1; 1945, No. 176, § 1; 1985, No. 900, Pope’s Dig., § 9856; Acts 1939, No. 196, § 4; A.S.A. 1947, § 19-1801.

CASE NOTES

Constitutionality of Levy.

Where city council had voted full five mills tax authorized by Ark. Const., Art. 12, § 4, an attempted levy of additional tax voted by the electors for the use of firemen’s and policemen’s pension and relief funds violated the constitutional limi-

tation. *Adamson v. City of Little Rock*, 199 Ark. 435, 134 S.W.2d 558 (1939).
Cited: *Board of Trustees v. City of Little Rock*, 295 Ark. 585, 750 S.W.2d 950 (1988); *Hestand v. Erke*, 227 Ark. 309, 298 S.W.2d 44 (1957).

24-11-404. Tax levy for pensions in cities of first and second class.

(a)(1) After being once approved by a majority of those voting on the question at any general or special election in any city of the first or second class, a tax not to exceed one (1) mill on the dollar upon the assessed value of the real and personal property of the city shall be levied annually by the city for the purpose of paying police officers' retirement salaries and pensions, as well as pensions to the surviving spouses and minor children of deceased police officers and the surviving spouses and minor children of deceased retired police officers.

(2) The levy shall be made by the city council, or other governing body of the city, on or before the time fixed by law for levying county taxes, and the city council, or other governing body, shall make out and certify to the county clerk the rate of taxation levied by the municipal corporation on the real and personal property within the city.

(3) The amount so certified shall be placed upon the tax book by the county clerk of the county and collected in the same manner that state and county taxes are collected and shall be turned over to the board of trustees of the policemen's pension and relief fund of the city.

(b)(1) In those cities which do not have a policemen's pension and relief fund but which cover their police officers under the Arkansas Local Police and Fire Retirement System, the tax shall also be allowed when approved by a majority of qualified electors of the cities participating in any election on the question and held at the time of any election in the city, whether state, city, special, or federal, or at a special election for the purpose of voting on the question.

(2) The election may be held in connection with the first general city election following March 6, 1989, but the failure to submit at a city or other election shall not defeat the right of submission at any subsequent election.

(3) Upon the filing with the county board of election commissioners, not later than sixty (60) days before the date of the election of a petition signed by twenty (20) or more qualified electors of the city affected and praying that the question of a policemen's pension be submitted, it shall be the duty of the county board of election commissioners to place the question upon the ballot.

(4) In the event that, for any reason, the question of the policemen's pension is not voted upon in the next general city election after March 6, 1989, the question may be submitted at any other general or special election held in the city as provided in this subsection.

(5) The question on the ballot shall be as follows:
"FOR Police Officer's Pension ☐
AGAINST Police Officer's Pension ☐

(6) The tax so levied shall not exceed one (1) mill on the dollar upon the assessed value of the real and personal property of the city or town.

(c) The tax, once so approved, shall be levied and certified in the same manner as provided in this section and shall be collected and

turned over to the city or town for the sole purpose of making payment for coverage of employees under the Arkansas Local Police and Fire Retirement System.

(d) A vote on the question of the tax provided for in this section shall be had in the same manner that the Constitution and laws of this state provide for the initiation of measures in municipalities.

(e) The funds provided for in this section shall be supplemental, and in addition to, any funds provided for by any laws in effect at the time of passage of this section and shall become part of the policemen's pension and relief fund of the city and be administered by the board of trustees of the policemen's pension and relief fund for the same class of beneficiaries and in the same manner as prescribed by law.

(f) In those cities which do not have a policemen's pension and relief fund but which cover their police officers under the Arkansas Local Police and Fire Retirement System, the funds shall be applied to each city's account in that system, in such manner and amounts as determined by the board of trustees of that system.

History. Acts 1941, No. 16, §§ 1, 2, 4; 1985, No. 900, §§ 1, 3; A.S.A. 1947, §§ 19-1707, 19-1708, 19-1710; Acts 1989, No. 341, § 1.

term, "passage of this section," Acts 1941, No. 16 was signed by the Governor and took effect January 30, 1941.

Acts 1941, No. 16, §§ 1, 2, and 4, were also codified as § 24-11-503 [repealed].

Publisher's Notes. In reference to the

CASE NOTES

Cited: Board of Trustees v. City of Little Rock, 295 Ark. 585, 750 S.W.2d 950 (1988).

24-11-405. Board of trustees.

(a) The board of trustees of the policemen's pension and relief fund shall consist of seven (7) members, as follows:

(1) The chief executive officer of the city, who shall be chair of the board;

(2) The city treasurer, who shall be the treasurer of the fund;

(3)(A)(i) Four (4) active or retired members of the pension fund.

(ii)(a) The active pension fund members shall elect the active members by secret written ballot in May of each year, with the member or members to be chosen in alternating years.

(b) The retired member or members shall be chosen in May of each year by a method to be determined by the board, with the member or members to be chosen in alternating years.

(c) All member trustees shall serve two-year terms.

(iii) If there are no active members of the pension fund, all four (4) employee members shall be elected from and by the retired membership of the pension fund.

(B) The board shall select one (1) of the police members as secretary of the board to serve for a period of two (2) years or until his or her successor is elected and qualified.

(C) However, if no retirant is available to serve on the board, all four (4) employee positions shall be held by active members of the pension fund and shall all be elected by secret ballot by the active members of the pension fund for two-year terms as provided in subdivision (a)(3)(A) of this section.

(D) The board shall have the power to make all rules and regulations needful for its guidance to implement the provisions regarding board composition;

(4) The six (6) members provided for in subdivisions (1)-(3) of this subsection shall elect one (1) more member who shall be a reputable physician and who shall represent the board of trustees in the examination of any member of the department upon a claim of disability; and

(5) The number of active members or retired members to serve on the board shall be determined by the proportionate number of active members to retired members:

(A) When the number of active members equals seventy-five percent (75%) of the total of retired members and active members, the board shall be comprised of three (3) active members and one (1) retired member;

(B) When the number of active members equals fifty percent (50%) of the total of retired members and active members, the board shall be comprised of two (2) active members and two (2) retired members; and

(C) When the number of retired members equals seventy-five percent (75%) of the total of retired members and active members, the board shall be composed of one (1) active member and three (3) retired members.

(b) The police officer members and the physician representative of the board shall serve for a period of two (2) years or until their successors are elected and qualified.

(c) The board shall have the absolute control and management of the funds provided for in this subchapter and of all moneys donated, paid, or assessed for the relief or pension of disabled, superannuated, and retired members of the police department, their surviving spouses and minor children, or dependent parents solely dependent upon members for their support.

(d)(1) The board shall make all necessary rules and regulations for its government and the discharge of its duties and shall hear and decide all applications for relief or pension under this subchapter.

(2) All decisions upon applications shall be final and conclusive and not subject to review or reversal except by the board.

(3) The board shall cause to be kept a record of all its meetings and proceedings.

History. Acts 1937, No. 250, §§ 3, 4; 1804; Acts 1987, No. 405, § 2; 1991, No. Pope's Dig., §§ 9858, 9859; Acts 1985, No. 365, § 1. 390, § 1; A.S.A. 1947, §§ 19-1803, 19-

CASE NOTES

ANALYSIS

Action against pension board.
Hearing on pension claim.

Hirrill v. Merriweather, 629 F.2d 490 (8th Cir. 1980).

Action Against Pension Board.

If the circuit court's unappealed dismissal of mandamus suit was based on subsection (d) precluding judicial review of board's decision, the dismissal would not be res judicata as to the police officer's civil rights suit in the federal courts.

Hearing on Pension Claim.

Police officer was entitled to have his pension claim considered by a body of reasonable and fair-minded persons who were able and willing to give the claim fair consideration and to grant it if meritorious. *Hirrill v. Merriweather*, 629 F.2d 490 (8th Cir. 1980).

24-11-406. Administration of small funds by Arkansas Local Police and Fire Retirement System.

(a) In those local police pension and relief funds which cover fewer than four (4) active members, a local board of trustees may no longer exist, and the fund may be designated as inactive by the employer.

(b) Administrative responsibility for the fund shall be assigned to the Arkansas Local Police and Fire Retirement System, as allowed by §§ 24-10-301 and 24-10-302 and as provided in the following procedure:

(1)(A) The actuary under contract to the system shall compute the retirement reserve for vested and active members and for eligible beneficiaries of the inactive fund. After receiving the report of the actuary, the employer shall transfer the computed reserve to the system to be held in an account designated as the retirement reserve for the inactive fund and from which the system shall pay eligible beneficiaries.

(B) The retirement reserve and any additional employer contributions shall include such amounts as are necessary to provide administrative expenses for the system, but such expenses shall not exceed a total of one-half of one percent (0.5%) of active member payroll, if any, plus one percent (1%) of annual reserve assets;

(2) Any excess assets of the fund remaining after the retirement reserve is created shall be transferred to an account designated by the employer, to be used solely for the purpose of making payments to the system for employee coverage administered under the system and for no other purpose;

(3) If a former member of the local pension fund returns to service in which the employee would have again become a member of the local fund, the past service credit may be purchased by the employer for the employee under the system, and the purchase costs shall be amortized in the same manner as other service credit purchases are amortized under the system;

(4)(A) No benefit amendments shall be made in benefits payable from the inactive fund under the administration of the system.

(B) Should the law mandate an increase in benefits to retired members or their beneficiaries, the increases shall be payable from the retirement reserve of the inactive fund.

(C) No prorating of benefits shall be allowed in inactive funds under the administration of the system.

(D) If the retirement reserve of an inactive fund shall become inadequate to pay full benefits to eligible recipients, the system shall require of the employer, and the employer shall remit, such actuarially computed amounts as are necessary to pay full benefits to current and future eligible recipients;

(5)(A) Once a fund becomes inactive and a retirement reserve is created as required by this section, the employer may continue to collect such millages, fines, fees, state insurance tax turnback, and other revenues as allowed by law for the support of police retirement programs.

(B) The revenues shall be deposited locally in an account designated by the employer solely for making payments to the system and shall be used for no other purpose; and

(6)(A) All employer contributions for inactive funds shall be made in such amounts, and in such manner, form, and frequency, as the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall require.

(B) The pension records of inactive funds, and other materials and reports as may be required by the board to administer the inactive funds, shall be provided to the Arkansas Local Police and Fire Retirement System in such manner as the board shall require.

History. Acts 1937, No. 250, § 4;
Pope's Dig., § 9859; Acts 1985, No. 927,
§ 1; A.S.A. 1947, § 19-1804.

24-11-407. List of retired police officers.

(a) There shall be kept in the office of the board of trustees by the secretary a book known as the list of retired police officers.

(b) This book shall give the full and complete history and record of action of the board of trustees in retiring any and all persons under this subchapter.

(c) The record shall give the name, date of joining the department, date of retirement and reason thereof, and the date and finding of the physician of each examination made of disabled members of the department retired under the provisions of this subchapter.

History. Acts 1937, No. 250, § 12;
Pope's Dig., § 9867; A.S.A. 1947, § 19-
1812.

24-11-408. Treasurer as custodian of fund.

(a) The treasurer shall be the custodian of the pension fund and shall keep his or her books and accounts concerning the funds in such manner as may be prescribed by the board.

(b) The books and accounts shall be subject to the inspection of any member of the board.

(c)(1) Within ten (10) days after his or her selection, the treasurer shall execute a bond to the board of trustees with good and sufficient securities, in such penal sum as the board shall direct, conditioned for the faithful performance of the duties of his or her office and that, on the expiration or retirement of his or her term of office, he or she shall surrender and deliver to his or her successor all unexpended moneys and all property which may have come into his or her hands as treasurer of the fund.

(2) The bond shall be filed in the office of the board of trustees, and, in case of a breach of the bond, suit may be brought on the bond in the name of the board or in the name of any person or persons injured by the breach.

History. Acts 1937, No. 250, § 17; Pope's Dig., § 9872; A.S.A. 1947, § 19-1817.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond

program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

24-11-409. Deposit of moneys.

The board shall deposit all moneys in the bank selected as the fiscal agent of the city in which it is located, but only if the moneys draw the same rate of interest as the city receives on its deposits. Otherwise, the board shall make its own selection of the bank.

History. Acts 1937, No. 250, § 14; Pope's Dig., § 9869; A.S.A. 1947, § 19-1814.

24-11-410. Investment.

(a) The board of trustees shall have the power to draw sums from its treasury, only upon warrants signed by the chair and countersigned by the policemen's pension and relief fund, to invest in the name of the board of trustees of the policemen's pension and relief fund in interest-bearing bonds of the United States, of the State of Arkansas, or of the city in which the board is located, in a local government joint investment trust pursuant to § 19-8-301 et seq., in the Arkansas Local Police and Fire Retirement System, or in savings and loan associations duly established and authorized to do business in this state.

(b) All securities shall be deposited with the treasurer of the board of trustees of the pension and relief fund and shall be subject to the order of the board.

(c)(1) In those pension and relief funds in which assets exceed five hundred thousand dollars (\$500,000), the board of trustees may employ an investment advisor as defined in § 24-10-402(a)(2)(A)(ii) to invest the assets, subject to the terms, conditions, limitations, and restrictions imposed by law upon the Arkansas Local Police and Fire Retirement System, as provided by §§ 24-10-401 — 24-10-411.

(2) Investments shall not be limited to interest-bearing bonds.

History. Acts 1937, No. 250, § 5; A.S.A. 1947, § 19-1805; Acts 1989, No. Pope's Dig., § 9860; Acts 1957, No. 121, 152, § 3; 1995, No. 615, § 2. § 1; 1985, No. 6, § 2; 1985, No. 16, § 2;

24-11-411. Payments.

(a) All moneys paid from the pension and relief fund shall be paid by the treasurer only upon warrants signed by the chair and countersigned by the secretary thereof.

(b) No warrant shall be drawn except by order of the board, and interest accruing from the fund while on deposit or otherwise shall constitute a part of the fund.

History. Acts 1937, No. 250, § 6; Pope's Dig., § 9861; A.S.A. 1947, § 19-1806.

24-11-412. Report on condition of fund.

The board of trustees shall report to the council or city commission the condition of the pension fund on the first regular meeting in January of each year.

History. Acts 1937, No. 250, § 15; Pope's Dig., § 9870; A.S.A. 1947, § 19-1815.

24-11-413. Moneys added to fund — Contributions.

(a) There shall be added to the fund the following moneys:

(1) All forfeitures and fines imposed upon any member of the police department by way of discipline;

(2) All money given or donated to the fund;

(3) All money deducted from the salary of any member of the police department on account of absence or loss of time;

(4) All rewards paid for any purpose;

(5) Ten percent (10%) of all fines and forfeitures collected by the police department of the city for violation of ordinances or state law; and

(6)(A) Six percent (6%) of the monthly salary of each member of the department, to be deducted each month by the city and immediately paid to the board of trustees of the policemen's pension and relief fund.

(B) However, the monthly deduction shall be four percent (4%) for police officers contributing to social security unless increased, but not to exceed six percent (6%), by the majority vote of the contributing members of a police department covered by social security.

(b) All cities and towns in which a policemen's pension and relief fund is established shall contribute to the fund an amount not less than six percent (6%) of the police officers' salary.

(c) The contributions by cities and towns shall not exceed the amount contributed by the police officers, except where authorized by appropriation of the city's or town's governing body.

History. Acts 1937, No. 250, § 2; Pope's Dig., § 9857; Acts 1939, No. 11, §§ 1, 2; 1953, No. 86, § 1; 1957, No. 415, § 1; 1963, No. 211, § 1; 1969, No. 68, § 1; 1981, No. 486, § 2; 1983, No. 46, § 1; A.S.A. 1947, § 19-1802; Acts 1989, No. 187, § 1; 1993, No. 1289, § 1; 2001, No. 1809, § 9.

A.C.R.C. Notes. Acts 1993, No. 1289, § 2, provided: "Costs previously collected

and deposited into police pension funds are hereby declared to have been lawfully collected and deposited into those funds and they shall not be withdrawn except for paying benefits from the fund."

Amendments. The 2001 amendment redesignated former (a)(6) as (a)(6)(A)-(B) and made related changes; and deleted (a)(7) and made related changes.

CASE NOTES

Exemptions.

Acts 1959, No. 206, which created the initial exemption, did not purport to amend Acts 1937, No. 250; it dealt with police pension and relief funds for cities of over 75,000 population, referred to Acts 1937, No. 250 for the basic procedures and then created the exemption, and was codified as § 24-11-414. Each of the subsequent acts raising the property valuation

level for exemption amended § 24-11-414, not this section, and the General Assembly showed that it did not regard the exempting legislation as having been previously repealed when it specifically repealed § 24-11-414 by Acts 1987, No. 690. *Board of Trustees v. City of Little Rock*, 295 Ark. 585, 750 S.W.2d 950 (1988).

Cited: *McCarty v. Board of Trustees*, 45 Ark. App. 102, 872 S.W.2d 74 (1994).

24-11-414. [Repealed.]

Publisher's Notes. This section, concerning certain cities not required to add fines and forfeitures to fund, was repealed by Acts 1987, No. 690, § 1. The section was derived from Acts 1959, No. 206, § 2; 1973, No. 26, § 1; 1975, No. 32, § 1; 1977, No. 41, § 1; A.S.A. 1947, § 19-1802.1.

Acts 1987, No. 690, § 2, provided that the act should not be construed to permit or require any fine and forfeiture funds previously paid into any policeman's pension fund to be withdrawn or otherwise taken from any such fund.

24-11-415. Proceeds derived from sale of confiscated goods.

(a)(1) In all cities and towns, the proceeds derived from the sale of all confiscated goods that are required by the laws of this state to be sold if they were confiscated by a police officer of the city, by the sheriff, or by an officer of the Department of Arkansas State Police within the city shall be deposited in the city's policemen's pension and retirement fund.

(2) Subdivision (a)(1) of this section shall not supercede any existing provisions of law governing the disposition of confiscated goods.

(b)(1) In all cities and towns, until such time as the pension and retirement fund is actuarially sound as determined by the actuary under contract with the Arkansas Fire and Police Pension Review Board, all moneys confiscated by a police officer of the city, by the sheriff, or by an officer of the Department of Arkansas State Police within the city shall be deposited in the city's policemen's pension and retirement fund.

(2) Subdivision (b)(1) of this section shall not supercede any existing provisions of law governing the disposition of confiscated moneys.

(3) At the time that the pension and retirement fund is actuarially sound, all moneys received under this subsection shall be retained by the city.

History. Acts 1977, No. 745, § 1; A.S.A. 1947, § 19-1802.2; Acts 2001, No. 1832, § 1. **Amendments.** The 2001 amendment rewrote the section.

CASE NOTES

Construction.

Section 5-64-505 effected a repeal by implication of this section in drug trafficking cases; when the seized personal property results from drug trafficking, § 5-64-505(k) controls and the proceeds under

\$250,000 resulting from the forfeiture sales must be distributed into the Drug Control Funds. Board of Trustees v. Stodola, 328 Ark. 194, 942 S.W.2d 255 (1997).

24-11-416. Proration where fund insufficient.

If at any time there should not be sufficient money in the fund to pay each person a full amount to which he or she may be entitled, the beneficiaries shall be paid by prorating the fund available among them.

History. Acts 1937, No. 250, § 11; Pope's Dig., § 9866; A.S.A. 1947, § 19-1811.

24-11-417. Subjection of fund to legal process.

(a) No portion of the pension and relief fund shall at any time be subject to seizure or levy under any process whatsoever for the payment of any claim or debt held against any disabled member or the surviving spouse, dependent parent, or child of a deceased or retired member.

(b) The fund shall be securely held and distributed for the purpose of pensioning the persons mentioned in this subchapter and for no other person or purpose whatsoever.

History. Acts 1937, No. 250, § 16; Pope's Dig., § 9871; A.S.A. 1947, § 19-1816.

24-11-418. Credited service — Purchase for military service by past or present members generally.

(a) Any person who is or was a member of the policemen's pension and relief fund as established by this subchapter and who was not receiving benefits under the Arkansas Local Police and Fire Retirement System on June 17, 1981, shall be entitled to purchase credited service in the system for a period not to exceed two (2) years for service rendered by the member while on active duty in the armed forces of the United States prior to the member's employment covered by the policemen's pension and relief fund as established by this subchapter, but only if:

(1) The person received an honorable discharge from the armed forces;

(2) He or she is not receiving federal military service retirement pay based upon nineteen (19) or more years of active duty. However, disability federal retirement pay shall not disqualify a member from purchasing credit; and

(3) He or she does one (1) of the following:

(A) If he or she has participated in the policemen's pension and relief fund for at least eighteen (18) years, he or she contributes to the member's deposit account a sum of money equal to the amount of the combined employee and employer contribution made by or on behalf of the member to the system based upon the contributions for the last month of the employee's eighteenth year of service, multiplied by the number of months of military service the member is eligible for and desires to purchase under this section with interest thereon at the rate of six percent (6%) per annum from the date of eligibility to purchase the service to the date of purchase; or

(B) If he or she has participated in the policemen's pension and relief fund for at least twenty (20) years, he or she contributes to the member's deposit account a sum of money equal to the amount of the combined employee and employer contribution made by or on behalf of the member to the system based upon contributions at the time he or she first became a member of the retirement system, multiplied by the number of months of military service the member is eligible for and desires to purchase under this section with interest thereon at the rate of six percent (6%) per annum from the date of eligibility to purchase the service to the date of purchase.

(b) A member who purchases credited service in the system as authorized in this section shall not be entitled to receive retirement benefits under the system until the date on which he or she has twenty (20) years of actual service under the system or would have had twenty (20) years of actual service under the system if the member had continued his or her employment.

(c) When a member purchases credited service as authorized in this section and terminates employment before his or her twentieth anniversary as a member of the system, that portion of the insurance

premium tax returned to the employing city for credit to policemen's pension funds which was previously credited to the policemen's pension and relief fund for the position held by the member shall continue to be credited to that fund until the date on which the member would have been a member of the system for twenty (20) years had he or she continued employment.

History. Acts 1981, No. 514, § 1;
A.S.A. 1947, § 19-1828; Acts 1987, No.
811, § 1; 1991, No. 371, § 1.

24-11-419. Credited service — Purchase of military service by active police in cities of 75,000.

(a)(1) Any person who on July 20, 1979, was an active member of the police department of any city having a population of seventy-five thousand (75,000) or more persons according to the 1970 Federal Decennial Census shall be entitled to purchase credited service in the policemen's pension and relief fund of the city for the time the person served on active duty in the armed forces of the United States.

(2) No member shall be entitled to purchase more than two (2) years of credited service in a pension fund for service in the armed forces.

(b)(1) The policemen's pension and relief fund in each city having a population of seventy-five thousand (75,000) or more persons according to the 1970 Federal Decennial Census is authorized to allow the purchase of service credit for military service as provided in this section whenever it is determined by an actuary employed by the Arkansas Local Police and Fire Retirement System who is a member of the American Academy of Actuaries that it is and has been actuarially feasible for a period of five (5) years for the policemen's pension and relief fund to pay both the benefits provided under this section and all other benefits provided by law from the policemen's pension and relief fund.

(2) The Executive Director of the Arkansas Fire and Police Pension Review Board shall state the actuarial findings in writing to the board of trustees and shall certify the appropriate action to be taken.

(c) A policemen's pension and relief fund shall be deemed to be actuarially sound if the unfunded liabilities of the fund can be funded over a period of not more than thirty (30) years, based on the current available and known revenue or income sources available to the policemen's pension and relief fund.

(d)(1)(A) An explanation by the board of trustees of the policemen's pension and relief fund outlining the increase in active member benefits shall be filed with the executive director.

(B) The executive director shall determine that an actuarial valuation has been made in accordance with the provisions of this section and that the actuarial valuation has determined that the proposed increase in benefits may be funded over a period of time set forth in subsection (c) of this section based upon available or defined revenue

sources of the relief fund, in which event the executive director may approve the increase to member or beneficiary benefits under the policemen's pension and relief fund.

(2) All actions of the executive director shall be subject to review and acceptance by the Arkansas Fire and Police Pension Review Board.

(e) A copy of the explanation by the board of trustees, a copy of the actuarial evaluation, and a copy of the action taken by the executive director shall be filed with the circuit clerk and the city clerk of the county and city in which the policemen's pension and relief fund is located.

(f)(1) A member of any pension and relief fund who desires to purchase credited service in the fund for military service as provided in this section shall make application therefor to the board of trustees of the fund and shall furnish the board proof of the military service of the applicant, as well as proof that the applicant was honorably discharged from the armed forces.

(2) Within such time as may be prescribed by the board, the member shall pay into the fund such amount of money as the board determines would have been contributed to the fund by or on behalf of the applicant had he or she been a member of the fund during his or her term of military service, based on the contributions made to the fund by or on behalf of the member at the time he or she first became a member of the fund, together with interest thereon at the rate of six percent (6%) per annum beginning six (6) months after the member became eligible to purchase the credit.

(g)(1) The cost of the actuarial valuation made under the provisions of this section shall be paid by the board of trustees of the policemen's pension and relief fund which proposes to increase member or beneficiary benefits under the fund.

(2) The actuarial valuation shall include:

(A) The current financial and actuarial status of the income and liabilities of the firemen's and policemen's pension and relief fund;

(B) A detailed statement of the proposed benefit increases;

(C) A comparison reflecting that the level of contributions and other income under the pension and relief fund is sufficient to amortize the unfunded liabilities resulting from the benefit increase over a thirty-year period; and

(D) An evaluation determining whether, in the opinion of the actuary, the income under the policemen's pension and relief fund will be actuarially sound.

History. Acts 1979, No. 712, §§ 1-3; 1981, No. 429, § 1; 1983, No. 653, § 1; A.S.A. 1947, §§ 19-1825—19-1827.

24-11-420. [Repealed.]

Publisher's Notes. This section, concerning credit for service as fire fighter in cities between 24,000 and 32,500, was repealed by Acts 1995, No. 920, § 1. The

section was derived from Acts 1973, No. 381, § 1; A.S.A. 1947, § 19-1809.1.

24-11-421. Credited service — Restoration.

(a)(1) In the event a former member again becomes an employee of the same police department where previously employed, the police officer shall again become a member of the system, and the credited service forfeited by him or her shall be restored to his or her credit, but only if he or she returns to the fund the amount refunded to him or her plus interest from the date of withdrawal to the date of repayment.

(2) The interest rate to be paid shall be equal to the fund's average investment rate of return as indicated in the last three (3) annual accountant's reports, but in no case less than six percent (6%).

(3) The repayment shall be made according to such rules and regulations as the board shall adopt.

(b) Any police officer who has become a member of the Arkansas Local Police and Fire Retirement System shall remain a member of that system.

History. Acts 1983, No. 46, § 1; A.S.A. 1947, § 19-1802.

24-11-422. Benefits — Voluntary retirement.

(a)(1)(A) Any member of a police department who has performed faithful service for a period of at least twenty (20) years shall be eligible for voluntary retirement.

(B) Upon written application by the member, the board of trustees shall place him or her on the pension roll at one-half ($\frac{1}{2}$) the actual salary based upon his or her highest salary year during his or her time of service.

(2)(A)(i) The term "salary" as used herein shall mean regular salary only and shall not include, except as otherwise provided in subdivision (a)(2)(A)(ii) of this section, overtime pay, payments for unused accrued sick or annual leave, or the cash value of any nonrecurring or unusual remuneration.

(ii)(a) The term "salary" may include the payments to a police officer for unused accrued sick leave not to exceed ninety (90) work days recorded on the records of the city or town as of the officer's date of retirement, provided the municipality agrees by ordinance to make adequate contributions to the fund to cover the additional costs for the benefits from the increased salary and the fund is judged by an actuarial determination to be actuarially sound.

(b) The board of trustees shall determine the actuarial costs of the payments for the unused accrued sick leave to the fund.

(B) The overtime exclusion shall not apply to a benefit computed at any time on a salary year prior to June 28, 1985.

(b)(1)(A) Any police officer who has more than twenty (20) years of service at the time of retirement shall be entitled to receive the sum

of twenty dollars (\$20.00) per month in addition to his or her regular retirement pay for each full year worked over and above twenty (20) years.

(B) In no instance shall he or she receive more than one hundred dollars (\$100) per month in addition to his or her regular benefit.

(2) The increase in benefit levels provided in this subsection for service beyond twenty (20) years shall apply only to those police officers who retire on or after January 1, 1987.

(c)(1) Any member of a department of a city which is divided by a street state line from an incorporated city or town in an adjoining state who is eligible for voluntary retirement and who shall continue to work for the department may receive the sum of twenty dollars (\$20.00) per month upon retirement in addition to his or her regular monthly retirement pay for each continuous year that he or she shall work over and above his or her twenty (20) years.

(2) In no instance shall he or she receive more than three hundred dollars (\$300) per month in addition to his or her regular retirement pay.

History. Acts 1937, No. 250, § 9; A.S.A. 1947, § 19-1809; Acts 1987, No. Pope's Dig., § 9864; Acts 1945, No. 176, 325, § 3; 1987, No. 396, § 2; 1987, No. § 3; 1957, No. 415, § 2; 1963, No. 210, 797, § 2; 1989, No. 592, § 1; 1993, No. § 1; 1969, No. 288, § 1; 1971, No. 63, § 1; 546, § 1. 1981, No. 987, § 1; 1985, No. 899, § 1;

CASE NOTES

ANALYSIS

Discretion of trustees.

Eligibility.

Extra pay.

"Pay."

Discretion of Trustees.

The power of the board of trustees to retire a policeman under this section is discretionary. However, after the board has retired a member of the police force, its discretion ceases and it must perform the additional ministerial act of paying to the retired policemen the pension provided for, and mandamus is the proper remedy to compel the performance of that duty. *Looper v. Gordon*, 201 Ark. 841, 147 S.W.2d 24 (1941).

Eligibility.

This section does not require that, in order to entitle a member of the police force to a pension, his 20 years in the police department are to be served consec-

utively. *Looper v. Gordon*, 201 Ark. 841, 147 S.W.2d 24 (1941).

Police lieutenant who had served as a member of the department in excess of 20 years was eligible for retirement at "half-pay" under this section. *Hestand v. Erke*, 227 Ark. 309, 298 S.W.2d 44 (1957).

Extra Pay.

Certain extra pay received by police lieutenant was improperly included in determining his retirement pay under this section. *Hestand v. Erke*, 227 Ark. 309, 298 S.W.2d 44 (1957) (decision prior to 1957 amendment).

"Pay."

The word "pay" as used in this section relates to the word "salary" as used in a city ordinance fixing monthly salaries of police officers. *Hestand v. Erke*, 227 Ark. 309, 298 S.W.2d 44 (1957).

Cited: *Hirrill v. Merriweather*, 629 F.2d 490 (8th Cir. 1980).

24-11-423. Benefits — Disability retirement.

(a)(1)(A) If any member of the police department shall become physically or mentally permanently disabled and this fact is certified to by the physician on the board of trustees, he or she shall be entitled to retire and receive a pension as provided herein. The board may first require that a second evaluation be performed by another physician to be named by the board. No member shall be retired for disability for natural causes unless he or she has served at least five (5) years.

(B) If the disabling injury or disease occurred while not actually performing work in gainful employment for the police department, the monthly benefit shall be equal to the benefit paid to normal service retirants.

(C)(i) If, however, a police officer is injured in the line of duty, the monthly disability benefit shall either be equal to sixty-five percent (65%) of the salary attached to the rank held by the member in the police department or shall be equal to the benefit paid to normal service retirants, whichever is greater.

(ii) For purposes of this section, "injured in the line of duty" means a disabling injury or disease which occurs while conducting official police department operations or while in training to become a police officer.

(iii) The board shall determine whether the disability occurred in the line of duty and may require any medical evidence, official reports, expert testimony, or other information to be supplied by the applicant in addition to the required physician's examination. The additional benefits provided in this subdivision (a)(1)(C) shall be effective for all qualifying applications first received by the board on or after January 1, 1987.

(2) For purposes of computing all benefits under this section, the term "salary" means regular salary only and shall not include overtime pay, payments for unused accrued sick leave or annual leave, or the cash value of any nonrecurring or unusual remuneration.

(b) Any police officer retired for reasons of disability who has more than twenty (20) years of service shall also be entitled to receive any supplementary benefit for which he or she would otherwise be qualified under this section and § 24-11-422.

(c)(1) If any member is retired because of any disability, it shall be the duty of the member to have an examination made of himself or herself by the physician on the board at least once every six (6) months, and, if he or she shall have recovered from the disability, it shall be the duty of the board to stop the payment of the pension and to place the member back in service on the police department.

(2) The time of his or her retirement shall be considered as continuous service in the department.

(3) A member receiving the examination shall pay to the physician examining him or her a fee of five dollars (\$5.00) for the examination so made.

(d)(1) In addition to the examination required by subsection (c) of this section, the board may require the member to have an examination made of himself or herself by a physician named by the board no more often than once every six (6) months, and, if the physician determines that the member has recovered from the disability, it shall be the duty of the board to stop the payment of the pension and to place the member back in service on the police department.

(2) The time of his or her retirement shall be considered as continuous service in the department.

(3) The board shall pay for the cost of the additional examination.

History. Acts 1937, No. 250, §§ 7, 9, 10; Pope's Dig., §§ 9862, 9864, 9865; Acts 1941, No. 82, §§ 1, 2; 1945, No. 176, §§ 2, 3; 1957, No. 415, § 2; 1963, No. 210, § 1; 1969, No. 288, § 1; 1971, No. 63, § 1; 1981, No. 987, § 1; 1983, No. 552, §§ 1, 2; A.S.A. 1947, §§ 19-1807, 19-1809, 19-1810; Acts 1987, No. 325, §§ 2, 3.

CASE NOTES

Applicability.

This section only applies where disability is caused while in the performance of duty, regardless of the length of service, and it does not apply to officers retired on

the basis of age and years of service. *Looper v. Gordon*, 201 Ark. 841, 147 S.W.2d 24 (1941).

Cited: *Hirrill v. Merriweather*, 629 F.2d 490 (8th Cir. 1980).

24-11-424. Benefits — Retirant receiving less than one-half salary.

Retired police officers who are eligible to receive benefits from a policemen's pension and relief fund shall receive from the policemen's pension and relief fund a minimum monthly benefit of no less than three hundred fifty dollars (\$350).

History. Acts 1983, No. 462, § 1; 1985, No. 391, § 1; A.S.A. 1947, § 19-1829; Acts 1993, No. 1197, § 1.

A.C.R.C. Notes. Acts 1993, No. 1197, § 6, provided: "The increased benefits provided for under the provisions of this

act shall only be paid provided the retirement funds are actuarially sound after the increase as determined by the actuary for the Arkansas Fire and Police Pension Review Board."

24-11-425. Benefits — Death of active or retired member.

(a)(1) If any active police officer or any retired member dies from any cause, leaving a surviving spouse, then the board of trustees shall direct a monthly pension during the surviving spouse's life in an amount equal to the pension attached to the rank of the deceased police officer at the time of his or her death, but in no event shall the benefit of the surviving spouse be less than three hundred fifty dollars (\$350) per month.

(2) If any active police officer or any retired member dies from any cause and leaves no surviving spouse but has a surviving child or children under the age of eighteen (18) who have not completed high school, then the board shall direct a monthly pension benefit to such

surviving child or children under the age of eighteen (18) in an aggregate amount to such children equal to the pension attached to the rank of the deceased police officer at the time of his or her death, but in no event shall the benefits to the surviving children be less than three hundred fifty dollars (\$350) per month. However, if any child enrolls in an institution of higher learning after completing high school, then the payment shall continue as long as the child is a full-time student, but not beyond the child's twenty-third birthday, unless he or she is a dependent child who is physically or mentally permanently disabled.

(3) The board may continue a benefit for life for a dependent child who is physically or mentally permanently disabled and this fact is certified to the board by a physician on the board. The board may first require that a second evaluation be performed by another physician to be named by the board of trustees, and they shall review the child's disabled status from time to time, but at least every five (5) years.

(b) Should the police officer leave no surviving spouse or children but does leave a dependent parent, the board shall pay the dependent parent the sum of one hundred twenty-five dollars (\$125) monthly, as long as the dependent parent remains unmarried.

(c) The minimum benefit provided in this section shall be paid to all qualified survivors regardless of whether they were already receiving benefits or become eligible for the first time after June 17, 1981.

(d)(1) If any police officer marries after retirement, that surviving spouse may be entitled to a pension under this subchapter if he or she has been married to the police officer for a period of at least five (5) years, if the board of trustees for the fund decides to extend this benefit for its members and if the pension fund will be actuarially sound as determined by the actuary for the Arkansas Fire and Police Pension Review Board after this benefit increase is extended to members.

(2) If any police officer who retired after June 12, 1964, and before June 20, 1964, marries after retirement, that surviving spouse shall be entitled to a pension under this subchapter if he or she has been married to the police officer for a period of at least two (2) years and if the actuarial soundness of the fund will not be adversely affected.

(e)(1) In addition to the monthly pension provided in subsections (a) and (b) of this section, the board shall order and direct the payment of the sum of one hundred twenty-five dollars (\$125) per month to each child under eighteen (18) years of age who has not completed high school. However, if the child enrolls in an institution of higher learning after completing high school, then the payment shall continue as long as the child is a full-time student, but not beyond the child's twenty-third birthday, unless he or she is a dependent child who is physically or mentally permanently disabled.

(2) The board may continue a benefit for life for a dependent child who is physically or mentally permanently disabled and this fact is certified to the board by a physician on the board. The board may first require that a second evaluation be performed by another physician to be named by the board, and they shall review the child's disabled status from time to time, but at least every five (5) years.

(f) The sum total of the pension to be paid the surviving spouse or the qualifying child of the deceased police officer shall not exceed one-half ($\frac{1}{2}$) of the salary attached to the rank the police officer held at the time of his or her death.

(g) If any surviving spouse or child shall marry, he or she shall thereafter receive no further pension under this subchapter, except that if he or she is a surviving spouse of a police officer who is killed while in the official performance of his or her duties, then any such surviving spouse's benefits may be restored to the spouse whose benefits had been terminated prior to or after August 1, 1997, upon his or her application to and approval by the board.

(h)(1) When entitled to a pension as provided by this subchapter, a surviving spouse, child, or dependent parent shall make application to the board through the secretary of the board on a form to be provided by the board.

(2) Accompanying the application shall be proof of the marriage of the decedent to the surviving spouse claimant.

(3) Proof of the birth of children shall be shown by the baptismal or board of health certificates.

(4) All applications and proof shall be retained in the custody of the board, and due notice of that action shall be registered by the secretary in his or her office.

(i) Every member of the department must file with the secretary the names of those persons to whom death benefits are to be paid and the relationship of the beneficiary to the decedent.

History. Acts 1937, No. 250, §§ 8, 13, 19; Pope's Dig., §§ 9863, 9868, 9874; Acts 1953, No. 86, § 2; 1965, No. 413, § 1; 1967, No. 127, § 1; 1981, No. 582, § 1; 1983, No. 44, § 1; 1985, No. 1027, § 1; A.S.A. 1947, §§ 19-1808, 19-1813, 19-1819; Acts 1987, No. 618, § 1; 1993, No. 1197, § 2; 1997, No. 1138, § 1; 1997, No. 1241, § 1; 1999, No. 978, § 1; 1999, No. 1458, §§ 1, 2.

A.C.R.C. Notes. Acts 1993, No. 1197, § 6, provided: "The increased benefits provided for under the provisions of this act shall only be paid provided the retirement funds are actuarially sound after the increase as determined by the actuary for the Arkansas Fire and Police Pension Review Board."

Acts 1997, No. 695, § 1, codified as § 24-10-617, provided: "(a) When a municipal employee who is vested in a municipal retirement system under the Arkansas Local Police and Fire Retirement System, § 24-10-101, et seq., or under a local police pension and relief fund, § 24-11-401, et seq., or under a fire pension and relief fund, § 24-11-801, et seq., is killed

or dies in the course of his employment and is survived by a spouse, or has surviving dependents actively drawing a benefit from those municipal retirement systems, then the surviving spouse or surviving dependents may continue to participate in the municipality's health care plan as long as the surviving spouse or surviving dependents pay both employer and employee contributions to the health care plan.

"(b) Provided, however, a surviving spouse or surviving dependent may qualify to continue on the health care plan only so long as they remain an eligible beneficiaries under the retirement system."

Publisher's Notes. Acts 1999, No. 1458, § 2 provided: "The provisions of this act shall apply retroactively to allow certain surviving spouses who lost benefits because of re-marriage to have those benefits restored if their member spouses were killed while in performance of his or her official duties before Act 1241 of 1997 became effective."

Amendments. The 1997 amendment by No. 1138 rewrote (d)(1).

The 1997 amendment by No. 1241 added the exception in (g).

The 1999 amendment by No. 978 inserted the language following "duties" in (g).

The 1999 amendment by No. 1458

added (a)(2)-(a)(3); and deleted "or a child under the age of eighteen (18) years" following "a surviving spouse" in (a)(1); added (e)(2); and, in the second sentence in (e)(1), inserted "then," substituted "not" for "in no instance," and made minor punctuation changes.

CASE NOTES

Surviving Spouse.

This section provides that a monthly pension would be paid to a qualified survivor during the surviving spouse's life.

Bourne v. Bd. of Trs. of Little Rock Policeman's Relief Pension Fund, 347 Ark. 19, 59 S.W.3d 432 (2001).

24-11-426. Optional vesting rights policy.

(a)(1) Upon an actuarial determination that the fund will remain actuarially sound, the board of trustees of a local policemen's pension and relief fund of cities of the first class shall have the option to establish a vesting rights policy in its policemen's pension and relief fund.

(2) The required actuarial evaluation shall be made by the actuary employed by the Arkansas Local Police and Fire Retirement System upon application to the Executive Director of the Arkansas Fire and Police Pension Review Board, who shall then report the actuarial findings in writing to the board of trustees.

(3) All costs for the evaluations shall be borne by the local funds.

(b)(1) If approved, the vesting policy shall provide that in the event a member with ten (10) years or more of credited service in the system ceases to be employed as a member of the department and does not withdraw his or her accumulated employee contributions to the system, the member shall be entitled to receive a pension upon reaching fifty-five (55) years of age and making application to the board of trustees.

(2) The pensions shall be computed at two and one-half percent (2.5%) of salary at the time of separation from the department, multiplied by the number of years of credited service, not to exceed twenty (20) years.

(c) Any member may elect to withdraw his or her accumulated contributions to the system at the time of separation from the department and to waive any pension rights the member may have earned in the system.

(d) This section shall not affect any other section of the policemen's pension and relief funds of cities of the first class.

History. Acts 1983, No. 646, § 1; A.S.A. 1947, § 19-1830.

24-11-427. [Repealed.]

Publisher's Notes. This section, concerning increase in benefits, was repealed by Acts 1995, No. 684, § 2. The section was derived from Acts 1979, No. 217, §§ 1-3; 1981, No. 284, § 1; 1983, No. 328, § 1; A.S.A. 1947, §§ 19-1822 — 19-1824; Acts 1987, No. 279, § 1.

24-11-428. Return of salary deductions.

In the event of resignation or discharge from the police department of any member thereof, all moneys deducted from his or her salary shall be immediately returned to him or her without interest.

History. Acts 1937, No. 250, § 2; § 1; 1963, No. 211, § 1; 1969, No. 68, § 1; Pope's Dig., § 9857; Acts 1939, No. 11, 1981, No. 486, § 2; 1983, No. 46, § 1; §§ 1, 2; 1953, No. 86, § 1; 1957, No. 415, A.S.A. 1947, § 19-1802.

24-11-429. Vacation pay.

The head or chief of each police department shall arrange that each employee shall be granted an annual vacation of not fewer than fifteen (15) working days with full pay.

History. Acts 1937, No. 250, § 2; § 1; 1963, No. 211, § 1; 1969, No. 68, § 1; Pope's Dig., § 9857; Acts 1939, No. 11, 1981, No. 486, § 2; 1983, No. 46, § 1; §§ 1, 2; 1953, No. 86, § 1; 1957, No. 415, A.S.A. 1947, § 19-1802.

24-11-430. Funeral expenses.

(a) Whenever an active or retired police officer shall die or be killed, the board of trustees shall appropriate from the fund a sum of not less than one hundred dollars (\$100) nor more than four thousand dollars (\$4,000) to pay the funeral expenses of the decedent.

(b) Each board of trustees shall adopt a policy establishing the amount to be paid for funeral expenses pursuant to this section, and the amount shall be awarded uniformly to all eligible persons.

(c) The board of trustees may change the amount of funeral expenses payable under this section, but in that instance the amount shall be uniformly distributed likewise.

(d) The effective date of the 1983 amendment to this section shall be retroactive to June 17, 1981.

History. Acts 1937, No. 250, § 18; Pope's Dig., § 9873; Acts 1981, No. 438, § 1; 1983, No. 10, §§ 1, 2; A.S.A. 1947, §§ 19-1818, 19-1818.1; Acts 1997, No. 1017, § 1.

Publisher's Notes. Acts 1983, No. 10, § 2, provided, in part, that by enacting the 1981 amendment to § 24-11-719 (repealed), the General Assembly intended to grant all the boards of trustees of all

policemen's pension and relief funds the authority to pay up to \$2,000 for funeral expenses to active or retired police officers who die or are killed, and that, since the intent of § 24-11-719 (repealed) might be interpreted as not having general application, Acts 1983, No. 10, which amended this section, was designed to grant that authority to all boards of trustees of all policemen's pension and relief

funds ret-roactive to June 17, 1981.

Amendments. The 1997 amendment substituted “four thousand dollars (\$4,000)” for “two thousand dollars (\$2,000)” in (a).

24-11-431. [Repealed.]

Publisher’s Notes. This section, concerning the pension for chief of police of cities of 65,000 or more, was repealed by Acts 1987, No. 5, § 1, which provided that the repeal was not applicable to persons already retired under Acts 1975, No. 315. The section was derived from Acts 1975, No. 315, § 1; A.S.A. 1947, § 19-819.

24-11-432. Additional benefits for certain officers hired prior to January 1, 1983.

(a) Beginning July 1, 1987, in addition to the monthly pension benefits as set forth in §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, for those police officers hired prior to January 1, 1983, and who continue to work beyond their twenty-fifth year, the member shall receive at age sixty (60) and thereafter a benefit on the amount equal to one and one-fourth percent (1.25%) of final salary attached to the rank which the member may have held in the department preceding the date of retirement multiplied by the number of years of service in excess of twenty-five (25) years up to a maximum total benefit of seventy-five percent (75%) of final salary, provided that the maximum seventy-five percent (75%) of final salary shall no longer apply to benefits payable on April 30, 1993, and thereafter to persons retiring henceforth and to those persons who retired on or after July 1, 1987.

(b) This benefit shall be payable to the member only and not to surviving spouses or dependent children.

(c)(1) For the purposes of this section, “salary” means recurring pays which are received for a regularly scheduled work week and shall not include, except as otherwise provided in this subsection, payments for unused accrued sick leave or annual leave or the cash value of any nonrecurring or unusual remunerations.

(2) The term “salary” may include the payments to those police officers under this section for unused accrued sick leave not to exceed ninety (90) work days recorded on the records of the city or town as of the officer’s date of retirement, provided the municipality agrees by ordinance to make adequate contributions to the fund to cover the additional costs for the benefits from the increased salary and the fund is judged by an actuarial determination to be actuarially sound. The board of trustees shall determine the actuarial costs of the payments for the unused accrued sick leave to the fund.

History. Acts 1987, No. 878, § 1; 1993, No. 546, § 2; 1993, No. 872, § 1; 2001, No. 1140, § 1.

Publisher’s Notes. Acts 1987, No. 878, § 1, is also codified as § 24-11-826.

Amendments. The 2001 amendment,

in (a), deleted "years" preceding "and thereafter a benefit," substituted "the member may" for "he may," and deleted "However, in no case shall the benefit payment exceed one hundred percent (100%) of final salary" at the end.

CASE NOTES

Retroactivity.

Neither by express provision nor implication, does Act 878 of 1987 suggest that retroactivity is the intended result, and chancellor erred in applying it retroac-

tively to persons who retired before the act was passed. *Arkansas Fire & Police Pension Review Bd. v. Stephens*, 309 Ark. 537, 832 S.W.2d 239 (1992).

24-11-433. Police pension funds — Partial disability pensions.

(a)(1) If any member of the police department of a city of the first class with a population in excess of one hundred seventy thousand (170,000) persons as determined by the 1990 population totals as published by the Bureau of the Census of the Department of Commerce shall become physically or mentally permanently disabled and this fact is certified to by the physician on the board of trustees, he or she shall be entitled to retire and receive a pension as provided in this section.

(2) No member shall be retired for disability for natural causes unless he or she has served at least five (5) years.

(b)(1) The physician's certification shall state whether the disability is total or partial.

(2) In the event such disability is partial, the physician shall state the extent of such partial disability, apportioned to the body as a whole, in percentage terms.

(3) The board may first require that a second evaluation be performed by another physician to be named by the board.

(4)(A) If the disability injury or disease occurred while not actually performing work in gainful employment for the police department and the physician member of the board certifies that such disability is total, the monthly benefit shall be equal to the benefit paid to normal service retirants.

(B) If the physician member of the board certifies that such disability is partial, the monthly benefits shall be equal to the benefit paid to normal service retirants multiplied by the percentage the member is disabled, as certified by the physician member of the board.

(5)(A) If, however, a police officer is injured in the line of duty and the physician member of the board certifies that such disability is total, the monthly disability benefit shall either be equal to sixty-five percent (65%) of the salary attached to the rank held by the member in the police department or shall be equal to the benefit paid to normal service retirants, whichever is greater.

(B) If the physician member certifies that such disability is partial, the monthly benefit shall be equal to sixty-five percent (65%) of the salary attached to the rank held by the member in the police department or shall be equal to the benefit paid to normal service

retirants, whichever is greater, multiplied by the percentage the member is disabled, as certified by the physician member of the board.

(c) The board shall determine whether the disability occurred in the line of duty and may require any medical evidence, official reports, expert testimony, or other information to be supplied by the applicant in addition to the required physician's examination.

(d) The additional benefits provided in this section shall be effective for all qualifying applications first received by the board on or after January 1, 1987.

(e) For purposes of this section, "injured in the line of duty" means a disabling injury or disease which occurs while conducting official police department operations or while in training to become a police officer.

History. Acts 1991, No. 1168, § 1.

may not apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to "this subchapter" in §§ 24-11-101 — 24-11-432

24-11-434. Deferred retirement option plan.

(a)(1) In lieu of terminating employment and accepting a service retirement pension pursuant to § 24-11-401 et seq., any police officer who is a member of a policemen's pension and relief fund who has not fewer than twenty (20) years of credited service and who is eligible to receive a service retirement pension may elect to participate in the Arkansas Police Officers' Deferred Option Plan and defer the receipt of benefits in accordance with the provisions of this section, provided that the board of trustees of the local policemen's pension and relief fund approves the participation in the plan.

(2) For purposes of this section, credited service shall include service credit recognized pursuant to this subchapter.

(b)(1) The duration of participation in the plan for active police officers shall not exceed five (5) years.

(2) The five-year limit may be extended if:

(A) The extension does not cause the limit to exceed ten (10) years;

(B) The extension applies to all active members and all members on the plan;

(C) The extension is approved by a majority of votes of the board of trustees of the pension and relief fund or of the Arkansas Local Police and Fire Retirement System for funds whose administrative responsibility has been assigned to the system as provided in § 24-11-406(b);

(D) The interest credited after the first five (5) years on the plan shall be two (2) percentage points below the rate of return of the investment portfolio of the fund and shall not be determined under subdivision (e)(2) of this section, but in no event shall the interest rate credited be less than zero percent (0%); and

(E) The extension is approved by a majority vote of the governing body of the sponsoring municipality.

(c) At the conclusion of a member's participation in the plan, the member shall terminate employment with all participating municipal-

ities as a police officer and shall start receiving the member's accrued monthly retirement benefit from the policemen's pension and relief fund.

(d)(1) When a member begins participation in the plan, the contribution of the police officer and the employer contribution shall continue to be paid.

(2)(A) In a municipality having a population of over twenty thousand (20,000) persons, municipal matching contributions for employees who elect the plan shall be credited equally to the policemen's pension and relief fund and to the plan, or at the option of the local pension and relief fund board of trustees, credited in the manner provided in subdivision (d)(2)(B) of this section.

(B) In a municipality having a population of twenty thousand (20,000) persons or less, municipal matching contributions for employees who elect the plan shall be credited in full to the policemen's pension and relief fund, and the contribution of the employee shall be credited to the member's plan account.

(3) The monthly retirement benefits that would have been payable had the member elected to cease employment and receive service retirement and pension supplement payments made by the Policemen's Pension Supplement Program shall be paid into the plan account.

(e)(1) The member's monthly retirement benefit shall not change, unless the plan receives a benefit increase.

(2)(A) A member who participates in this plan shall earn interest at a rate of two (2) percentage points below the rate of return of the investment portfolio of the policemen's pension and relief fund as certified by the actuary under contract with the Arkansas Fire and Police Pension Review Board in accordance with generally accepted actuarial practices and § 24-11-207, but no less than the actuarial assumed interest rate as certified by the actuary.

(B) The interest shall be credited to the individual account balance of the member on an annual basis.

(f) A participant in the plan shall receive, at the option of the participant, a lump sum payment from the account equal to the payments to the account or a true annuity based upon the account of the participant or may elect any other method of payment if approved by the board of trustees.

(g) If the participant dies during the period of participation in the plan, a lump sum payment equal to the account balance of the participant shall be paid.

(h) Participants in the plan shall not receive any benefits under the plan unless they participate in the plan for a minimum of one (1) year, absent death or disability.

(i) Participants in the plan subject to the extended ten-year service limit shall forfeit a portion of the extended service benefits earned, specifically limited to only the interest and employer contributions' portions which have been credited to the plan account, under the plan beyond the first five (5) years of participation should the participant

terminate employment during the extended service time, absent death or disability, as follows:

- (1) Forfeit eighty percent (80%) if termination occurs in the sixth year of participation;
- (2) Forfeit sixty percent (60%) if termination occurs in the seventh year of participation;
- (3) Forfeit forty percent (40%) if termination occurs in the eighth year of participation; and
- (4) Forfeit twenty percent (20%) if termination occurs in the ninth year of participation.

History. Acts 1993, No. 757, § 1; 1995, No. 961, § 1; 1997, No. 492, § 1; 1999, No. 670, § 3; 1999, No. 1457, § 1; 1999, No. 1459, § 1; 2001, No. 1543, § 5.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-11-101 — 24-11-432 may not apply to this section which was enacted subsequently.

Amendments. The 1997 amendment inserted “as certified by the actuary under contract with the Arkansas Fire and Police Pension Review Board in accordance with generally accepted actuarial practices and § 24-11-207” in (e)(2)(A).

The 1999 amendment by No. 670 in-

serted “but in no event shall the interest rate credited be less than zero percent” in (b)(2)(D).

The 1999 amendment by No. 1457 added (d)(2)(B); and rewrote (d)(2)(A).

The 1999 amendment by No. 1459 inserted “specifically limited to only the interest and employer contributions’ portions which have been credited to the plan account” in the introductory paragraph of (i).

The 2001 amendment substituted “receive service...Supplement Program” for “receive a service retirement” in (d)(3).

24-11-435. Buy-out option.

(a)(1) Any city of the first class which has a local police pension and relief fund which covers only retired members, no longer accepts new members, and has over four hundred percent (400%) of its retired life liabilities covered by assets may use those funds to buy out the beneficiaries or otherwise assure that the beneficiaries will receive all benefits to which they are entitled under the plan.

(2) Thereafter, the city by ordinance may dissolve the police retirement plan and transfer all surplus funds to the city treasury to be used solely for capital improvements of the city.

(b) All turnback funds from insurance premium taxes or other sources which the municipal police retirement plan or the city previously received to help fund the retirement plan shall thereafter be remitted to the city to be used for retirement benefits for uniformed and nonuniformed employees.

History. Acts 1995, No. 1012, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-11-401 — 24-11-434

may not apply to this section which was enacted subsequently.

24-11-436. Credit for military service.

(a) In the event an active member of a policemen’s pension and relief fund entered or enters the armed forces of the United States during any

period of voluntary or compulsory military service, the armed service actually served by him or her shall be credited him or her as service under this section, but only if he or she again becomes an employee within a period of one (1) year from and after honorable termination of the armed service actually served by him or her and he or she returns to the system the amount, if any, he or she may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(b) In any case of doubt as to the period of armed service to be so credited, the board shall have the final power to determine the period.

(c) During the period of armed service and until the member's return as an employee, his or her contributions to the system shall be suspended, and any balance not withdrawn shall remain on the books to his or her credit.

History. Acts 1995, No. 1290, § 1.

24-11-437. Credited service — Purchase of former law enforcement service.

(a) If the board of trustees for a policemen's pension and relief fund decides to extend this benefit for its members and if the pension fund will be actuarially sound as determined by the actuary for the Arkansas Fire and Police Pension Review Board after this benefit increase is extended to members, any member of the policemen's pension and relief fund as established by this subchapter shall be entitled to purchase credited service in the Arkansas Local Police and Fire Retirement System, not to exceed two (2) years, for service rendered by the member as a law enforcement officer in this state prior to the member's employment covered by the policemen's pension and relief fund.

(b) He or she may purchase the credited service if:

(1) He or she has participated in the policemen's pension and relief fund for at least eighteen (18) years; and

(2) He or she contributes to the member's deposit account a sum of money equal to the amount of the combined employee and employer contribution made by or on behalf of the member to the system based upon the contributions for the last month of the employee's eighteenth year of service, multiplied by the number of months of law enforcement service the member is eligible for and desires to purchase under this section with interest thereon at the rate of six percent (6%) per annum from the date of eligibility to purchase the service to the date of purchase.

(c) A member who purchases credited service in the system as authorized in this section shall not be entitled to receive retirement benefits under the system until the date on which he or she has twenty (20) years of actual service under the system or would have had twenty (20) years of actual service under the system if the member had continued his or her employment.

(d) When a member purchases credited service as authorized in this section and terminates employment before his or her twentieth anni-

versary as a member of the system, that portion of the insurance premium tax returned to the employing city for credit to policemen's pension funds which was previously credited to the policemen's pension and relief fund for the position held by the member shall continue to be credited to that fund until the date on which the member would have been a member of the system for twenty (20) years had he or she continued employment.

History. Acts 1999, No. 903, § 1.

24-11-438. Police-related service.

(a) Any member of a policemen's pension and relief fund who has police-related service with the municipal government shall be entitled to purchase credited service in the Arkansas Local Police and Fire Retirement System equivalent to the amount of employment service he or she has with the municipal police department in a position as police-related employment service up to a maximum of three (3) years of credited service, provided that the member contributes to the system an amount the Arkansas Fire and Police Pension Review Board determines would be actuarially equivalent to the value of the service purchased.

(b) The board shall have the final power to determine the value of the service purchased.

(c) Service credit purchased under this section may be used to determine the member's total credited service for the amount upon retirement and shall not be used to determine his or her final average pay for service under the system.

(d) As used in this section, "police-related service" means service with a municipality which has police officers covered under a policemen's pension and relief fund in a job or in a paid position within a covered police department or fire department where the person performs duties which are related to the delivery of police and law enforcement services, including service such as a police department radio dispatcher or other similar service.

History. Acts 1999, No. 1171, § 1.

SUBCHAPTER 5 — POLICE PENSION AND RELIEF FUNDS — CITIES OF 50,000 TO 75,000

SECTION.

24-11-501 — 24-11-520. [Repealed.]

24-11-501 — 24-11-520. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1995, No. 920, § 1. The subchapter was derived from the following sources:

24-11-501. Acts 1939, No. 25, § 21; A.S.A. 1947, § 19-1827n.

24-11-502. Acts 1939, No. 25, § 22; A.S.A. 1947, § 19-1827n.

24-11-503. Acts 1941, No. 16, §§ 1, 2, 4; 1985, No. 900, §§ 1, 3; A.S.A. 1947, §§ 19-1707, 19-1708, 19-1710.

24-11-504. Acts 1939, No. 25, § 1; A.S.A. 1947, § 19-1827n.

24-11-505. Acts 1939, No. 25, §§ 3, 4; A.S.A. 1947, § 19-1827n.

24-11-506. Acts 1939, No. 25, § 12; A.S.A. 1947, § 19-1827n.

24-11-507. Acts 1939, No. 25, § 17; A.S.A. 1947, § 19-1827n.

24-11-508. Acts 1939, No. 25, § 14; A.S.A. 1947, § 19-1827n.

24-11-509. Acts 1939, No. 25, § 5; A.S.A. 1947, § 19-1827n.

24-11-510. Acts 1939, No. 25, § 6; A.S.A. 1947, § 19-1827n.

24-11-511. Acts 1939, No. 25, § 15; A.S.A. 1947, § 19-1827n.

24-11-512. Acts 1939, No. 25, § 2; A.S.A. 1947, § 19-1827n.

24-11-513. Acts 1939, No. 25, § 2; A.S.A. 1947, § 19-1827n.

24-11-514. Acts 1939, No. 25, § 11; A.S.A. 1947, § 19-1827n.

24-11-515. Acts 1939, No. 25, § 16; A.S.A. 1947, § 19-1827n.

24-11-516. Acts 1939, No. 25, § 9; A.S.A. 1947, § 19-1827n.

24-11-517. Acts 1939, No. 25, §§ 7, 9, 10; A.S.A. 1947, § 19-1827n.

24-11-518. Acts 1939, No. 25, § 7; A.S.A. 1947, § 19-1827n.

24-11-519. Acts 1939, No. 25, §§ 8, 13, 19; A.S.A. 1947, § 19-1827n.

24-11-520. Acts 1939, No. 25, § 18; A.S.A. 1947, § 19-1827n.

SUBCHAPTER 6 — POLICE PENSION AND RELIEF FUNDS — CITIES OF 40,000 TO 50,000

SECTION.

24-11-601 — 24-11-615. [Repealed.]

24-11-601 — 24-11-615. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1995, No. 920, § 1. The subchapter was derived from the following sources:

24-11-601. Acts 1921, No. 343, § 1; A.S.A. 1947, § 19-1827n.

24-11-602. Acts 1921, No. 343, §§ 2, 3; A.S.A. 1947, § 19-1827n.

24-11-603. Acts 1921, No. 343, § 12; A.S.A. 1947, § 19-1827n.

24-11-604. Acts 1921, No. 343, § 16; A.S.A. 1947, § 19-1827n.

24-11-605. Acts 1921, No. 343, § 13; A.S.A. 1947, § 19-1827n.

24-11-606. Acts 1921, No. 343, § 6; A.S.A. 1947, § 19-1827n.

24-11-607. Acts 1921, No. 343, § 7; A.S.A. 1947, § 19-1827n.

24-11-608. Acts 1921, No. 343, §§ 4, 5; A.S.A. 1947, § 19-1827n.

24-11-609. Acts 1921, No. 343, § 10; A.S.A. 1947, § 19-1827n.

24-11-610. Acts 1921, No. 343, § 14; A.S.A. 1947, § 19-1827n.

24-11-611. Acts 1921, No. 343, § 15; A.S.A. 1947, § 19-1827n.

24-11-612. Acts 1921, No. 343, § 11; A.S.A. 1947, § 19-1827n.

24-11-613. Acts 1921, No. 343, §§ 8, 11; A.S.A. 1947, § 19-1827n.

24-11-614. Acts 1921, No. 343, §§ 9, 12, 18; A.S.A. 1947, § 19-1827n.

24-11-615. Acts 1921, No. 343, § 17; A.S.A. 1947, § 19-1827n.

SUBCHAPTER 7 — POLICE PENSION AND RELIEF FUNDS — CITIES OF 3,000 TO 8,000

SECTION.

24-11-701 — 24-11-719. [Repealed.]

24-11-701 — 24-11-719. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1995, No. 920, § 1. The subchapter was derived from the following sources:

- 24-11-701. Acts 1941, No. 387, § 21; A.S.A. 1947, § 19-2020.
- 24-11-702. Acts 1941, No. 387, § 22; A.S.A. 1947, § 19-2021.
- 24-11-703. Acts 1941, No. 387, § 1; A.S.A. 1947, § 19-2001.
- 24-11-704. Acts 1941, No. 387, §§ 3, 4; A.S.A. 1947, §§ 19-2003, 19-2004.
- 24-11-705. Acts 1941, No. 387, § 12; A.S.A. 1947, § 19-2012.
- 24-11-706. Acts 1941, No. 387, § 17; A.S.A. 1947, § 19-2017.
- 24-11-707. Acts 1941, No. 387, § 14; A.S.A. 1947, § 19-2014.
- 24-11-708. Acts 1941, No. 387, § 5; A.S.A. 1947, § 19-2005.
- 24-11-709. Acts 1941, No. 387, § 6; A.S.A. 1947, § 19-2006.
- 24-11-710. Acts 1941, No. 387, § 2; A.S.A. 1947, § 19-2002.

24-11-711. Acts 1941, No. 387, § 11; A.S.A. 1947, § 19-2011.

24-11-712. Acts 1941, No. 387, § 15; A.S.A. 1947, § 19-2015.

24-11-713. Acts 1941, No. 387, § 16; A.S.A. 1947, § 19-2016.

24-11-714. Acts 1941, No. 387, § 9; A.S.A. 1947, § 19-2009.

24-11-715. Acts 1941, No. 387, §§ 7, 9, 10; A.S.A. 1947, §§ 19-2007, 19-2009, 19-2010.

24-11-716. Acts 1941, No. 387, § 7; A.S.A. 1947, § 19-2007.

24-11-717. Acts 1941, No. 387, §§ 8, 13, 19; A.S.A. 1947, §§ 19-2008, 19-2013, 19-2019.

24-11-718. Acts 1941, No. 387, § 2; A.S.A. 1947, § 19-2002.

24-11-719. Acts 1941, No. 387, § 18; 1981, No. 438, § 1; A.S.A. 1947, § 19-2018.

SUBCHAPTER 8 — FIREMEN'S RELIEF AND PENSION FUNDS**SECTION.**

- 24-11-801. Board of trustees — Members.
- 24-11-802. Board of trustees — Proceedings.
- 24-11-803. Board of trustees — Powers.
- 24-11-804. Administration of small funds by Arkansas Local Police and Fire Retirement System.
- 24-11-805. Investment.
- 24-11-806. Payments generally.
- 24-11-807. Minimum payments generally — Proration upon insufficiency of fund — Supplemental pensions.
- 24-11-808. [Repealed.]
- 24-11-809. Apportionment of insurance premium tax generally.
- 24-11-810. Allocation of insurance premium tax — Apportionment.
- 24-11-811. Appropriations of insurance premium tax — Planned community property owners' associations.
- 24-11-812. Tax levy by city council.
- 24-11-813. Clerk's report to pension review board.

SECTION.

- 24-11-814. Subjection of fund to legal process.
- 24-11-815. Appeals.
- 24-11-816. Membership — Contributions.
- 24-11-817. Credit for military service.
- 24-11-818. Benefits — Voluntary retirement.
- 24-11-819. Benefits — Disability retirement.
- 24-11-820. Benefits — Death of active or retired member other than while employed outside department.
- 24-11-821. Benefits — Cessation of payments.
- 24-11-822. Benefits — Payments upon death of retirant or beneficiary.
- 24-11-823. Increase in benefits for certain persons retired due to total permanent disability.
- 24-11-824. Fire protection districts.
- 24-11-825. Pensions for volunteer fire fighters.
- 24-11-826. Additional benefits for certain fire fighters hired prior to January 1, 1983.

SECTION.

24-11-827. Retired member returning to active status.

24-11-828. [Repealed.]

24-11-829. Increase in surviving spouse benefits.

SECTION.

24-11-830. Deferred retirement option plan.

24-11-831. Insurance premium taxes.

24-11-832. Applicability of § 24-11-820.

24-11-833. Fire-related service.

A.C.R.C. Notes. References to "this subchapter" in §§ 24-11-801 — 24-11-821, 24-11-823, and 24-11-824 may not apply to §§ 24-11-822, 24-11-825 — 24-11-827, 24-11-829, and 24-11-830, which were enacted subsequently.

References to "this subchapter" in §§ 24-11-801 to 24-11-830 may not apply to §§ 24-11-831 and 24-11-832 which were enacted subsequently.

Cross References. Additional insurance premium tax allocated to Firemen's Relief and Pension Fund, §§ 26-57-610, 26-57-611.

Preambles. Acts 1941, No. 14 contained a preamble which read: "Whereas, at the general election held November 5, 1940, the people of the State of Arkansas adopted Amendment No. 31 to the Constitution of the State of Arkansas authorizing cities of the first and second class to vote a tax on the assessed value of real and personal property within such city not to exceed one (1) mill on the dollar to pay pensions to retired firemen and pensions to the widows and minor children of deceased firemen, and widows and minor children of deceased retired firemen, in such manner as shall be provided by law; "Therefore...."

Effective Dates. Acts 1927, No. 214, § 2: effective on passage.

Acts 1939, No. 84, § 2: Feb. 15, 1939.

Acts 1941, No. 14, § 5: approved Jan. 30, 1941. Emergency clause provided: "The method of levying a tax on the real and personal property of cities for the benefit of the Firemen's Pension and Relief Fund, under Act No. 30 of the Acts of the Arkansas General Assembly for the year 1939, having been declared unconstitutional by the Supreme Court of the State of Arkansas, it is ascertained and declared to be a fact that in many cities of this state the Firemen's Pension and Relief Fund is depleted; that in such cities there are many disabled and retired firemen, and widow and minor children of deceased firemen and widows and minor

children of deceased retired firemen, without any other source of income, and in need of the assistance that was contemplated under Act No. 30 of the Acts of 1939; that the existing laws make no provision for the respective municipalities to provide for pensions for such persons; that the passage of this act will enable such municipalities to vote on the question of a tax levy for firemen retirement salaries and pensions, and pensions to the widows and minor children of deceased firemen and widows and minor children of deceased retired firemen; therefore, in order to protect the public peace, health and safety of the citizenship of such municipalities, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage."

Acts 1943, No. 167, § 4: Mar. 4, 1943. Emergency clause provided: "In order to conserve, safeguard and make more equitable the proper disposition of the funds, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, it shall be in effect and full force from and after its passage and approval."

Acts 1947, No. 187, § 2: Mar. 6, 1947. Emergency clause provided: "Whereas, numerous cities and towns in Arkansas do not have sufficient moneys in the firemen's relief and pension fund to adequately provide for the payment of benefits and/or pensions to firemen injured or killed in the line of duty but do have sufficient funds to purchase insurance covering such contingencies; therefore, this act being necessary for the further protection of firemen of cities and towns in Arkansas and for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval."

Acts 1949, No. 488, § 3: Mar. 30, 1949. Emergency clause provided: "It is found that the work of firemen is essential to the

public peace, health and safety. Because of the urgent need for increased benefits to firemen or their survivors, and this Act being necessary, therefore, for preservation of the public peace, health, and safety, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval."

Acts 1951, No. 82, § 7: Feb. 15, 1951. Emergency clause provided: "Whereas it is necessary to provide additional funds for the Firemen's Relief and Pension Fund, and to require payments by those firemen who desire to receive the benefits of said fund; therefore, this act being necessary for the further protection of firemen of cities and towns in Arkansas and for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval."

Acts 1953, No. 68, § 3: Feb. 16, 1953. Emergency clause provided: "In order to conserve, safeguard and make more equitable the proper disposition of the funds, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, it shall be in effect and full force from and after its passage and approval."

Acts 1955, No. 76, § 2: Feb. 17, 1955. Emergency clause provided: "It is found that the work of firemen is essential to the public peace, health and safety. Because of the urgent need for monthly pensions for firemen who become physically or mentally disabled, and this Act being necessary, therefore, for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval."

Acts 1955, No. 77, § 3: Feb. 17, 1955. Emergency clause provided: "It is found that the work of firemen is essential to the public peace, health and safety, and it is further found that a great deal of confusion exists as to the eligibility of firemen and their widows for pensions and that said confusion is affecting adversely the morale of firemen. Because of the urgent necessity of correcting this situation, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety,

it shall be in full force and effect from and after its passage and approval."

Acts 1957, No. 94, § 2: Feb. 26, 1957. Emergency clause provided: "It is found that the work of firemen is essential to the public peace, health and safety, and it is further found that a great deal of confusion exists as to the eligibility of firemen and their widows for pensions and that said confusion is affecting adversely the morale of firemen. Because of the urgent necessity of correcting this situation, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, it shall be in full force and effect from and after its passage and approval."

Acts 1957, No. 95, § 2: Feb. 26, 1957. Emergency clause provided: "It is found that the work of firemen is essential to the public peace, health and safety. Because of the urgent need for monthly pensions for firemen who become physically or mentally disabled, and this Act being necessary, therefore, for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval."

Acts 1957, No. 265, § 2: approved Mar. 13, 1957. Emergency clause provided: "It is found that the work of firemen is essential to the public peace, health and safety, and it is further found that a great deal of confusion exists as to the eligibility of firemen and their widows for pensions and that said confusion is affecting adversely the morale of firemen. Because of the urgent necessity of correcting this situation, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, it shall be in full force and effect from and after its passage."

Acts 1963, No. 524, § 3: Mar. 19, 1963. Emergency clause provided: "It is hereby found and determined that the present minimum payment to retired firemen is inadequate to provide a decent minimum standard of living; that many retired firemen are totally dependent upon the benefits drawn from the firemen's relief and pension fund for their support; and, that immediate steps are needed to provide a more adequate minimum retirement benefit. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the

public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1967, No. 156, § 3: Feb. 28, 1967. Emergency clause provided: "It is hereby found and determined that additional sources of investments for moneys on deposit in Firemen's Relief and Pension Funds are needed; and, that the immediate passage of this Act is necessary to permit the investment of such funds in certificates of deposit and bank savings accounts in this State. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1968 (1st Ex. Sess.), No. 24, § 10: Feb. 19, 1968. Emergency clause provided: "It is hereby found and determined by the General Assembly that benefits under Firemen's Relief and Pension Funds are inadequate; that additional funds are necessary to properly finance the Firemen's Relief and Pension Funds in order that benefits to firemen and their dependents may be increased to meet the increasing cost of living and in order to assure that competent persons may be retained in the various Fire Departments to provide the fire protection that is essential to public health and safety in this State; and, that this Act will provide additional needed funds and will increase benefits under the Firemen's Relief and Pension Fund. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1981, No. 486, § 4: Jan. 1, 1982.

Acts 1983, No. 406, § 4: Mar. 13, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the general intention of the General Assembly to provide for planned communities property owners associations to participate in the distribution of insurance premium tax revenues is not clear under the present law; that such moneys are distributed to city fire departments and fire protection districts; that planned community property owners associations need such revenues to assist in providing fire protection services for such

communities, and that this Act is immediately necessary to authorize the planned community property owners associations to participate in the distribution of the insurance premium tax revenues. Therefore an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 145, § 4: Feb. 18, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the exclusion of some survivors from eligibility for benefits has placed an extreme hardship on them and that this Act is necessary to provide needed relief. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 754, § 7: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that current law provides for distribution of insurance tax turnback for the support of individual fire pension and relief funds, and for fire fighters covered under the Arkansas Local Police and Fire Retirement System, but that the certification process for the distribution of the tax is cumbersome and unclear, and that this Act is necessary to clarify the intent of existing law providing for the support of these retirement programs. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 992, § 7: Jan. 1, 1986.

Acts 1987, No. 389, § 6: Mar. 25, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current definition of "salary" is not being applied uniformly by the Boards of Trustees of the local Firemen's Pension and Relief Funds; that such varying application results in inequities to members of the pension system; that inequities in systems affecting firefighters could harm the public health, welfare and safety of this State. Therefore, an emergency is declared to exist and this Act

being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 405, § 4: Mar. 25, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that an active member of a police pension fund should be allowed to serve on a local pension board when no retirant is available to serve; that local police pension boards of trustees are uncertain of their composition when no retirant is available to serve; and that this act is immediately necessary to end such uncertainty. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 152, § 7: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that confusion exists regarding whether bank trust officers may serve as investment advisers to local police and fire pension funds; that it was never the intent that bank trust officers not be authorized to so act; that this Act clarifies the law to specifically authorize bank trust officers to serve as investment advisers to the local police and fire pension funds; and that this Act should be given effect immediately in order to eliminate the confusion. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1992 (1st Ex. Sess.), No. 71, § 6: Mar. 20, 1992. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas meeting in the First Extraordinary Session of 1992 that an error was made in the legislative process of incorporating amendments into the language of Act 851 of 1991 and a scrivener's error was made in the course of writing the bill which eventually became Act 429 of 1991 and that the errors in language will create some confusion as to the meaning of Act 851 of 1991 and the effectiveness of Act 429 of 1991 and thereby affect the administration of justice in the municipal courts of those af-

fected counties and the retirement benefits of those fireman's funds. Therefore, in order to correct the errant language and dispel any confusion as to the meaning of Act 851 of 1991 and to correct the scrivener's errors of Act 429 of 1991, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 546, § 8: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that allowing unused, accrued sick leave to be counted as salary for retirement purposes will enhance the municipal police officers' and fire fighters program for retirement; that police officers and fireman will thereby be motivated to work more productive hours with less absenteeism; and that the use of unused, accrued sick leave for retirement salaries is necessary for the most efficient and effective operation of the municipal police and fire departments of Arkansas. Therefore, in order to achieve the maximum use of municipal police officers' and fire fighters services, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1266, § 7: Jan. 1, 1995.

Acts 1997, No. 536, § 6: Mar. 17, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the survivorship provisions of the firemen's pension and relief laws are not as liberal in their coverage as those for police pension funds; that this inequity is borne directly by the surviving children of the firefighters who have died serving their communities; and it is necessary to correct this inequity immediately and provide retroactive coverage for these children. Therefore, in order to relieve this inequity as soon as possible, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of

time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1457, § 6: July 1, 1999. Emergency clause provided: "It is found and determined by the General Assembly that this act revises the law concerning the Arkansas Police Officers' Deferred Option Plan and the Arkansas Fire Fighters' Deferred Retirement Option Plan; and that, for the effective administration of this act, its provisions should become effective on July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1570, § 10: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Firemen's and Police Officers' Pension and Relief Fund need to be amended concerning the distribution and allocation of funds and that the effective administration of State government makes it necessary for these changes to begin immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1540, § 5: Apr. 12, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the provisions of this act must be implemented before the funds described herein are next disbursed in order to insure the fiscal well being of the beneficiaries of the Police and Fire Pension and Relief Funds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is nei-

ther approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1701, § 10: April 17, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the provisions of this act must be implemented before the funds described herein are next disbursed in order to insure the fiscal well-being of the beneficiaries of the Police and Fire Pension and Relief Funds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1806, § 2, provided: "This act applies retroactively to authorize the board of trustees of the Local Police and Fire Retirement System or of any municipal firemen's pension and relief fund which will remain actuarially sound to allow a fire fighter who was disabled from an injury in the line of duty after January 1, 1983, but before January 1, 1987, to receive the benefit of sixty-five percent (65%) of the salary attached to his rank, except that benefit payments shall not be made retroactive to the effective date of the fire fighter's disability."

Acts 2001, No. 1806, § 4: Apr. 19, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that certain disabled individuals under a firemen's pension and relief fund were injured in the line of duty before January 1, 1987; that this has worked a financial hardship and an inequity on individuals who were injured before the benefit was given to those fire fighters after January 1, 1987; and that certain individuals who were never granted benefits under this provision of law should have those benefits restored as soon as possible and to

have this act applied retroactively to those individuals. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is nei-

ther approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

Am. Jur. 60A Am. Jur. 2d, Pens., §§ 1661, 1678-1682.

C.J.S. 62 C.J.S., Mun. Corp., §§ 573-590, 592-595.

CASE NOTES

Pension Denied.

Disabled fireman was not entitled to pension when the act for which he was discharged caused his disability and he had not pursued appeal from the discharge. *Hughes v. Firemen's Relief & Pen-*

sion Fund, 231 Ark. 877, 333 S.W.2d 716 (1960).

Cited: *Aaron v. Davis*, 424 F. Supp. 1238 (E.D. Ark. 1976); *Daley v. City of Little Rock*, 319 Ark. 440, 892 S.W.2d 254 (1995).

24-11-801. Board of trustees — Members.

(a) The board of trustees of every firemen's pension and relief fund established in a city, incorporated town, or duly qualified fire protection district pursuant to the provisions of this subchapter shall be composed of the following:

- (1) The chief executive, who shall serve as chair of the board;
- (2) The city or district clerk or recorder, who shall serve as secretary of the board;
- (3) The fire chief, or, if the fire chief is not a member of the fund, the highest ranking member of the fire department who is a member and who is willing to serve; and
- (4) Four (4) active or retired members of the pension fund.

(b) The board thus created shall provide for the disbursement of the firemen's relief and pension fund and shall designate its beneficiaries as directed in this act.

(c) The fire department shall elect the active member or members by secret written ballot in May of each year, with the member or members to be chosen in alternate years.

(d) The retired members shall elect the retired member or members by secret written ballot in May of each year, with the member or members to be chosen in alternate years by a method to be determined by the board.

(e) All member trustees shall serve two-year terms.

(f)(1) The number of active members or retired members to serve on the board shall be determined by the proportionate number of active members to retired members, as follows:

(A) When the number of active members equals seventy-five percent (75%) of the total of retired members and active members, the

board shall be composed of three (3) active members and one (1) retired member;

(B) When the number of active members equals fifty percent (50%) of the total of retired members and active members, the board shall be composed of two (2) active members and two (2) retired members; and

(C) When the number of retired members equals seventy-five percent (75%) of the total of retired members and active members, the board shall be composed of one (1) active member and three (3) retired members.

(2)(A) However, when no retirant is available to serve on the board, all four (4) employee positions shall be held by active members of the pension fund and shall all be elected for two-year terms as provided in subsection (e) of this section.

(B) However, when no active member is available to serve on the board, all four (4) positions shall be held by retired members of the pension fund and shall all be elected for two-year terms as provided in subsection (e) of this section.

(g) The board shall have the power to make all rules and regulations needful for its guidance to implement the provisions regarding board composition.

(h) The chief executive in the cities, incorporated towns, or fire protection districts shall be the chair, the city or town clerk or recorder or clerk of the fire protection district shall be ex officio secretary, and the city, town, or fire protection district treasurer shall be ex officio treasurer of the board of trustees during his or her respective term of office as the official of the city, incorporated town, or fire protection district.

(i) The secretary and treasurer of each board of trustees shall report annually, at the same time annual reports are required as clerk, recorder, or treasurer, the precise status of the firemen's relief and pension fund, showing all receipts and disbursements on account with a full and complete list of all beneficiaries of the fund and the amount paid each beneficiary.

History. Acts 1921, No. 491, §§ 1, 2; Pope's Dig., §§ 7737, 7738; Acts 1943, No. 167, § 1; 1957, No. 326, §§ 1, 2; 1968 (1st Ex. Sess.), No. 24, §§ 1, 2; 1985, No. 927, § 2; A.S.A. 1947, §§ 19-2201, 19-2202; Acts 1987, No. 405, § 1; 1989, No. 527, § 1; 1991, No. 770, § 1.

Meaning of "this act". Acts 1921, No. 491, codified as §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, 24-11-818 — 24-11-821.

24-11-802. Board of trustees — Proceedings.

(a) Meetings of the board of trustees may be called by the chair or by a majority of the members in a manner established by the board.

(b) The board shall issue orders signed by the president and secretary to the persons entitled thereto for the amount of money ordered

paid to the persons from the fund by the board. The order shall state for what purpose the payment is made.

(c) The board shall keep a record of its proceedings. The record shall be a public record.

(d)(1) At each meeting, the board shall send to the treasurer of the city or town a written or printed list of all persons entitled to payment from the fund provided for in this subchapter.

(2) This list shall state the amount of the payment and for what granted and shall be certified to and signed by the president and secretary of the board and attested under oath.

(e)(1) The treasurer of the city or town shall thereupon enter a copy of the list upon the book to be kept for that purpose. The book shall be known as "The Firemen's Relief and Pension Fund Book".

(2) The board shall direct payment of the amounts named therein to the persons entitled thereto out of those funds.

(f) A majority of all the members of the board shall constitute a quorum and shall have the power to transact business.

(g)(1) No money belonging to the fund shall ever be disbursed for any purpose without a vote of a majority of all the members of the board of trustees, which shall be taken by the "yeas" and "nays".

(2) The vote of each member so voting shall be entered upon the proceedings of the board.

History. Acts 1921, No. 491, § 3; § 1; A.S.A. 1947, § 19-2203; Acts 1993, Pope's Dig., § 7739; Acts 1981, No. 57, No. 201, § 1; 1995, No. 514, §§ 4-6.

24-11-803. Board of trustees — Powers.

(a) In addition to the other powers granted in this subchapter, the board of trustees shall have the power to:

(1)(A) Compel witnesses to attend and testify before it upon all matters connected with the operation of this act and in the same manner as provided by law for the taking of testimony before a notary public.

(B) Its president or any member of the board may administer oaths to the witnesses;

(2)(A) Provide for the payment from the fund of all its necessary expenses and printing.

(B) However, no compensation or emoluments shall be paid to any member of the board for any duties performed under this act; and

(3) Make all rules and regulations needful for its guidance in conformity with the provisions of this act.

(b) The board shall have the power to accept and disburse according to the provisions of this act any and all sums which may come into its hands through appropriation, gift, or devise.

(c) Members of the board of trustees of the firemen's relief and pension fund of incorporated cities and towns in Arkansas shall have the power, in their discretion, to expend moneys from the firemen's pension and relief fund for the purpose of paying premiums and

purchasing group insurance covering the members of the fire departments of the cities and towns against accidental injury or death occurring within the line of duty of the fire fighters.

History. Acts 1921, No. 491, §§ 11, 14; Pope's Dig., §§ 7747, 7750; Acts 1947, No. 187, § 1; A.S.A. 1947, §§ 19-2211, 19-2222, 19-2229. **Meaning of "this act".** See note to § 24-11-801.

24-11-804. Administration of small funds by Arkansas Local Police and Fire Retirement System.

(a) In those local fire pension and relief funds which cover fewer than four (4) active members, a local board of trustees may no longer exist, and the pension fund may be designated as inactive by the employer.

(b) Administrative responsibility for the fund shall be assigned to the Arkansas Local Police and Fire Retirement System as allowed by §§ 24-10-301 and 24-10-302 and as provided in the following procedure:

(1)(A) The actuary under contract to the system shall compute the retirement reserve for vested and active members and for eligible beneficiaries of the inactive fund. After receiving the report of the actuary, the employer shall transfer the computed reserve to the system to be held in an account designed as the retirement reserve for the inactive fund and from which the system shall pay eligible beneficiaries.

(B) The retirement reserve and any additional employer contributions shall include such amounts as are necessary to provide administrative expenses for the system, but such expenses shall not exceed a total of one-half of one percent (0.5%) of active member payroll plus one percent (1%) of annual reserve assets.

(2) Any excess assets of the fund remaining after the retirement reserve is created shall be transferred to an account designated by the employer, to be used solely for the purpose of making payments to the system for employee coverage administered under the system, and for no other purpose.

(3)(A) If a former member of the local pension fund returns to service in which the employee would have again become a member of the local fund, the past service credit may be purchased by the employer for the employee under the system and the purchase costs shall be amortized in the same manner as other service credit purchases are amortized under the system.

(B) No benefit amendments shall be made in benefits payable from the inactive fund under the administration of the system.

(C) Should the law mandate an increase in benefits to retired members or their beneficiaries, the increases shall be payable from the retirement reserve of the inactive fund.

(D) No prorating of benefits shall be allowed in inactive funds under the administration of the system.

(E) If the retirement reserve of an inactive fund shall become inadequate to pay full benefits to eligible recipients or if active

members are still covered by the fund, the system shall require of the employer and the employer shall remit such actuarially computed amounts as are necessary to pay full benefits to current and future recipients.

(4)(A) Once a fund becomes inactive and a retirement reserve is created as required by this section, the employer may continue to collect such millages, state insurance tax turnback, and other revenues allowed by law for the support of fire fighter retirement programs.

(B) The revenues shall be deposited locally in an account designated by the employer solely for making payments to the system for employee coverage administered under the system, and for no other purpose.

(5)(A) All employer contributions for inactive funds shall be made in such amounts and in such manner, form, and frequency as the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall require.

(B) The pension records of inactive funds and other materials and reports as may be required by the board to administer the inactive funds shall be provided to the system in such manner as the board shall require.

History. Acts 1921, No. 491, § 1; § 2; A.S.A. 1947, § 19-2201; Acts 1987, Pope's Dig., § 7737; Acts 1985, No. 927, No. 405, § 1.

24-11-805. Investment.

(a)(1) All moneys provided for the fund by this act shall be paid over to and received by the treasurer of the city or town for the sole use and benefit of the firemen's relief and pension fund, and the fund shall be used for no other purpose.

(2) The additional duties imposed upon the treasurer shall be and comprise additional duties for which he or she shall be liable under his or her oath and bond as the city or town treasurer.

(b) The board of trustees shall have the power with the consent of a majority of the fire fighters at the time employed, expressed in writing and filed with the city clerk, to authorize the treasurer to draw sums from its treasury to invest in the name of the board of trustees of the firemen's relief and pension fund in interest-bearing bonds of the United States, of the State of Arkansas, or of the city where the board is located, in a local government joint investment trust pursuant to the Local Government Joint Investment Trust Act, § 19-8-301 et seq., the Arkansas Local Police and Fire Retirement System, in certificates of deposit or time deposits in banks duly established and authorized to do business in this state, or in savings and loan associations duly established and authorized to do business in this state.

(c) All securities shall be deposited with the treasurer of the board of trustees of the relief and pension fund and shall be subject to the orders of the board.

(d) However, in those pension and relief funds in which assets exceed one hundred thousand dollars (\$100,000), the board of trustees may employ an investment advisor as defined in § 24-10-402(a) to invest the assets, subject to the terms, conditions, limitations, and restrictions imposed by law upon the system, as provided by § 24-10-401 et seq. Investments shall not be limited to interest-bearing bonds, certificates of deposit, and time deposits.

History. Acts 1921, No. 491, § 15; Pope's Dig., § 7751; Acts 1939, No. 84, § 1; 1957, No. 121, § 2; 1967, No. 156, § 1; 1985, No. 6, § 3; 1985, No. 16, § 3; A.S.A. 1947, § 19-2223; Acts 1989, No. 152, § 4; 1995, No. 615, § 3; 1999, No. 901, § 2.

Amendments. The 1999 amendment substituted "one hundred thousand dollars (\$100,000)" for "five hundred thousand dollars (\$500,000)" in (d); and made stylistic changes.

CASE NOTES

Liability on Bond.

Surety was liable for money of firemen's pension fund deposited in bank which failed even though the loss was specifically excepted from provisions of the bond. *Jones v. Hadfield*, 192 Ark. 224, 96 S.W.2d 959 (1936), cert. denied, 300 U.S. 667, 57 S. Ct. 506, 81 L. Ed. 875 (1937).

In action to recover money belonging to firemen's pension fund from former city

treasurer and his surety, trustees who were real custodians of the fund and city having legal title to it were held proper parties plaintiff and present treasurer not willing to become a party was held properly joined as a defendant. *Jones v. Hadfield*, 192 Ark. 224, 96 S.W.2d 959 (1936), cert. denied, 300 U.S. 667, 57 S. Ct. 506, 81 L. Ed. 875 (1937).

24-11-806. Payments generally.

Payments provided for in this act shall be made monthly upon proper vouchers and in such manner as provided for in other disbursements of the city or town.

History. Acts 1921, No. 491, § 17; Pope's Dig., § 7753; A.S.A. 1947, § 19-2225.

Meaning of "this act". See note to § 24-11-801.

24-11-807. Minimum payments generally — Proration upon insufficiency of fund — Supplemental pensions.

(a)(1)(A) For volunteer fire fighters, in no case shall the payment to any retired member be less than fifty dollars (\$50.00) per month, and the payment shall be made in accordance with the justice and equity of each case as determined by the board of trustees of the firemen's relief and pension fund.

(B) The benefits provided for in this subdivision (a)(1) shall only be paid provided the retirement funds are actuarially sound after the increase as determined by the actuary for the Arkansas Fire and Police Pension Review Board.

(2) In no case shall the payment to any retired member be less than thirty dollars (\$30.00) per month, and the payment shall be made in

accordance with the justice and equity of each case as determined by the board of trustees of the firemen's relief and pension fund.

(b) Should the fund provided for in this subchapter be insufficient to make full payment of the amount of pensions to all persons entitled thereto, then the fund shall be prorated among those entitled by the proper authorities as may be deemed just and equitable.

(c) The payment provided for in this section shall not be made until after the payment in full of all claims or demands against the fund arising or accruing under the provisions of § 24-11-819(c).

(d) For the purpose of determining how to prorate benefits, the proration shall be considered just and equitable if:

(1) The board of trustees pays the full minimum benefit each month to all eligible beneficiaries until assets in the fund are depleted for the fiscal year, at which time all payments shall cease until revenues are received for the next fiscal year; or

(2) The board of trustees decreases all payments to all eligible beneficiaries by an equal proportion for the fiscal year and does not allow the assets in the fund to become fully depleted.

(e) In cities having a population of twenty thousand (20,000) or more, if the board of trustees of the firemen's relief and pension fund shall determine that the balances in the fund together with estimated income thereto will provide an amount sufficient to pay additional minimum pensions to volunteer fire fighters entitled to the pensions. Then, by adoption of a resolution by majority vote of the full membership of the board of trustees, the board of trustees may provide for the payment of supplemental, additional minimum pensions in an amount not to exceed twenty-five dollars (\$25.00) per month per retired volunteer fire fighter, or such lesser amount as the board of trustees shall determine can be paid from fund balances and estimated income without jeopardizing or reducing other benefits payable from the fund.

History. Acts 1921, No. 491, § 20; Pope's Dig., § 7756; Acts 1963, No. 524, § 1; 1971, No. 64, § 1; 1985, No. 338, § 1; A.S.A. 1947, § 19-2227; Acts 1993, No. 1197, § 5.

A.C.R.C. Notes. Acts 1993, No. 1197, § 6, provided: "The increased benefits provided for under the provisions of this

act shall only be paid provided the retirement funds are actuarially sound after the increase as determined by the actuary for the Arkansas Fire and Police Pension Review Board."

Publisher's Notes. Acts 1963, No. 524, § 2, provided that the act should not have retroactive effect.

24-11-808. [Repealed.]

Publisher's Notes. This section, concerning resumption of minimum payments in municipalities of 755 to 763 persons, was repealed by Acts 1995, No.

554, § 1. The section was derived from Acts 1981, No. 585, § 1; A.S.A. 1947, § 19-2227.1.

24-11-809. Apportionment of insurance premium tax generally.

(a)(1) There is apportioned and set aside for the use and benefit of duly constituted firemen's relief and pension funds and for the admin-

istrative and actuarial expenses of the Arkansas Fire and Police Pension Review Board and the Arkansas Fire and Police Pension Guarantee Fund the annual taxes of two and one-half percent (2.5%) on all foreign and alien premiums collected by all property and casualty insurance companies, corporations, or associations incorporated under the laws of any state or nation and doing business in the State of Arkansas, after all cancellations and dividends to policyholders are deducted as provided by §§ 23-60-102, 24-11-809, 26-57-601 — 26-57-605, and 26-57-607, upon real and personal property insured against the perils of fire and extended coverage, tornado, windstorm, cyclone, and hail, except upon growing crops, and located in or at cities, towns, and fire protection districts in the State of Arkansas coming within the provisions of this act.

(2) The premium taxes collected in this subsection shall be placed in a fund combined with the premium taxes collected pursuant to § 24-11-301. The combined fund shall be entitled the "Firemen's and Police Officers' Pension and Relief Fund".

(b) In the case of multiperil policies with a single premium for both the property and casualty coverages, the portion of the taxable premium shall be as follows:

(1) In the case of commercial multiperil policies, seventy percent (70%);

(2) In the case of homeowners' policies, forty-five percent (45%);

(3) In the case of automobile physical damage policies, nine percent (9%); and

(4) In the case of inland marine policies, fifteen percent (15%).

(c)(1)(A) The Insurance Commissioner is directed, and it shall be the commissioner's duty, to embody in his or her annual statement the names of all cities, towns, and fire protection districts entitled to receive the tax paid by the insurance companies.

(B) The commissioner shall require the companies to report at the time of making his or her annual statements the amount of premiums received and the amount of taxes paid by the companies during the year ending December 31 upon real and personal property insured against the perils recited in each and all of the several cities, towns, and fire protection districts named in his or her report.

(2) Thereafter, and by June 30 in each calendar year until the year 2000, the commissioner shall certify to the Auditor of State the names of the towns, cities, and fire protection districts having organized fire departments that qualify for participation in the taxes distributed for firemen's relief and pension funds and the amount of taxes paid in the preceding year by the companies described in this section upon the premiums described in this section. As of December 15, 2000, the provisions of subdivisions (c)(1) and (2) of this section shall be superseded by the provisions of § 24-11-810(a) and (b).

(3)(A) All taxes that are levied on insurers that are allocated to general revenues under this section may be allocated to the Fire Protection Premium Tax Fund and the Arkansas Fire and Police Pension Guarantee Fund and then to general revenues.

(B) For the 1999-2000 state fiscal year, six hundred thousand dollars (\$600,000) of the funds transferred to general revenues pursuant to this section and § 24-11-810 shall be transferred to the Fire Protection Premium Tax Fund and in all subsequent years fifty percent (50%) of the percentage increase in the amount allocated to general revenues under this section and § 24-11-810, using the dollar amount allocated in fiscal year 1999-2000 as the baseline, shall be transferred to the Fire Protection Premium Tax Fund in addition to the six hundred thousand dollars (\$600,000) per year, until such time that a cap of two million dollars (\$2,000,000) annually is transferred to the Fire Protection Premium Tax Fund. Thereafter, the annual transfer shall be set at two million dollars (\$2,000,000).

(C) Funds shall be distributed by the Chief Fiscal Officer of the State to the Arkansas Fire and Police Pension Guarantee Fund upon the recommendation of the Arkansas Fire and Police Pension Review Board in an amount necessary to fund the priority categories defined by § 24-11-209(e)(3)(A)-(D).

(D) Funds may be distributed by the Chief Fiscal Officer of the State to the Arkansas Fire and Police Pension Guarantee Fund upon the recommendation of the Arkansas Fire and Police Pension Review Board for plans in the priority category defined by § 24-11-209(e)(3)(E).

(4) The payment for the administrative and actuarial expenses of the Arkansas Fire and Police Pension Review Board shall be made prior to the disbursements to the eligible political subdivisions.

History. Acts 1921, No. 491, § 12; Pope's Dig., § 7748; Acts 1949, No. 488, § 1; 1965, No. 431, § 3; 1968 (1st Ex. Sess.), No. 24, § 4; 1981, No. 595, § 2; 1985, No. 754, § 1; 1985, No. 992, § 4; A.S.A. 1947, § 19-2212; Acts 1995, No. 1266, § 6; 1997, No. 119, § 2; 1997, No. 1077, § 1; 1999, No. 1570, § 3; 2001, No. 1540, § 2; 2001, No. 1543, § 6; 2001, No. 1701, § 5.

A.C.R.C. Notes. Acts 1999, No. 1570, § 6, provided: "The Department of Finance and Administration is authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions of §§ 24-11-301, 24-11-302, 24-11-809, and 24-11-810."

Amendments. The 1997 amendment by No. 119, in (c)(3)(B), substituted "shall" for "may" and added the language beginning "in an amount"; and added (c)(3)(C).

The 1997 amendment by No. 1077 added (c)(2)(A) and (B).

The 1999 amendment substituted "Apportionment" for "Appropriations" in the section catchline; in (a), substituted "ap-

portioned" for "appropriated" and inserted "property and casualty" preceding "insurance companies"; added (a)(1)-(a)(3); in (c)(2), inserted "until the year 2000" following "calendar year" and added the present last sentence; deleted (c)(2)(A) and (c)(2)(B); and made stylistic changes.

The 2001 amendment by No. 1540 rewrote the section.

The 2001 amendment by No. 1543, in (c)(3)(A), inserted "Fire Protection Premium Tax Fund and the," and added "and then to general revenues"; inserted (c)(3)(B) and made related changes; inserted "to the Arkansas Fire and Police Pension Guarantee Fund" in (c)(3)(C)-(D); and added (c)(5).

The 2001 amendment by No. 1701, in (c)(3)(A), substituted "that are allocated to general revenues under this section" for "but are not allocated to cities, towns, and fire protection districts qualified to participate in the distribution of the taxes," and added "and then to general revenues."

Meaning of "this act". See note to § 24-11-801.

24-11-810. Allocation of insurance premium tax — Apportionment.

(a)(1) All additional revenues collected as a result of the levy of the insurance premium tax on domestic insurers, other than for premiums or copayments for life, disability, legal, wet marine, and foreign trade, and health maintenance organization insurance or contracts shall be special revenues and shall be apportioned and remitted to the respective cities, towns, and fire protection districts which maintain a qualified firemen's pension fund or cover fire fighters under the Arkansas Local Police and Fire Retirement System.

(2)(A) The revenues collected pursuant to §§ 23-60-102, 24-11-809, 24-11-810, 26-57-601 — 26-57-605, and 26-57-607 shall be distributed to the Firemen's and Police Officers' Relief and Pension Fund and to the State of Arkansas as general revenues.

(B) The revenues shall be distributed in such a manner that the Firemen's and Police Officers' Relief and Pension Fund and the general revenue fund will each receive distributions of no less than they received in calendar year 1999, except that:

(i) If the revenues to be distributed in a subsequent year are less than the revenues distributed in 1999, then the distributions to each shall be reduced proportionately; and

(ii) If additional fire departments become eligible for distributions from the Firemen's and Police Officers' Relief and Pension Fund, the base amount for the state shall be reduced in proportion to the population in the area served by the fire department to the portion of the population of the state not covered by a fire department receiving a distribution from the fund.

(C) Except as provided in subdivision (a)(2)(B) of this section, the portion distributed to the Firemen's and Police Officers' Relief and Pension Fund shall be based on the ratio percentage of the total population of the cities, towns, or fire protection districts qualified to participate in the fund in comparison to the total population of the State of Arkansas. The remaining percentage shall be distributed to the State of Arkansas' General Revenue Fund.

(D) The allocation of funds to each qualified city, town, or fire protection district pursuant to subdivisions (a)(3)-(5) of this section shall be subject to the following conditions:

(i) Each calendar year the Arkansas Fire and Police Pension Review Board shall review its previous calendar year distribution of funds to each qualified city, town, or fire protection district prior to disbursement to each of these qualified areas. This review shall comply with subdivision (b)(5) of this section;

(ii) The certification of any new city, town, or fire protection district to participate in the Firemen's and Police Officers' Relief and Pension Fund shall be considered in the board's assessment each calendar year of the allocation of the disbursement of the funds pursuant to subdivision (b)(5) of this section; and

(iii) Any change in the legal description of any city, town, or fire protection district will be considered in the board's assessment each year. Any changes shall be reported to the board by December 15 of each calendar year. The associated population change caused by the change in legal description shall also be considered.

(3) The revenues collected pursuant to §§ 23-60-102, 24-11-809, 26-57-601 — 26-57-605, and 26-57-607 and distribution in accordance with subsection (a) of this section shall be allocated to each qualified city, town, or fire protection district in a proportion determined by evaluation of the following factors:

(A) The legal description of the metes and bounds of the city, town, or fire protection district. The legal description shall be based on standard physical features of the area. If the legal description cannot be based on standard physical features, a Global Positioning System survey shall be conducted to determine the boundaries;

(B) The preferred description of the area will be based on standard physical features. Each local department shall change the department's description of metes and bounds to the standard physical features' description. If the local chief cannot agree on a standard physical features' description, the county quorum court will make the decision; and

(C) A census population assessment in the city, town, or fire protection district.

(4)(A) The mayor or other qualified representative of each city or town or county fire coordinator for a rural fire protection district shall certify to the board the accuracy of the metes and bounds legal description of the area.

(B) The metes and bounds legal description shall be determined by a surveyor licensed in the State of Arkansas, a preexisting map held by the city, town, or fire protection district, or by the Institute for Economic Advancement at the College of Business Administration at the University of Arkansas at Little Rock's Geographic Information Systems Lab; and

(C) The population of the area shall be determined by the Census State Data Center at the Institute for Economic Advancement at the College of Business Administration at the University of Arkansas at Little Rock's Geographic Information Systems Lab.

(5)(A) An actuary certified by the Society of Actuaries shall evaluate the information submitted pursuant to subdivision (a)(3) of this section to determine the amount of turnback funds to be directed to an area based on the following formula:

(i) The legal description of the metes and bounds shall be considered as forty percent (40%) of the calculation; and

(ii) The population of the area shall be considered as sixty percent (60%) of the calculation.

(B) The actuarial assessment shall apply the corresponding ratio of these factors in calculating the exact amount of funds that should be allocated to each city, town, or fire protection district.

(C) The amount allocated to each location shall be reduced by the amount defined in this subdivision (a)(5)(C) for the Future Supplement Fund-Fire under § 24-11-212. The amount allocated to the Future Supplement Fund-Fire is the amount allocated to a location in this subsection multiplied by the ratio of the number as determined in subdivision (a)(5)(C)(i) of this section to the number as determined in subdivision (a)(5)(C)(ii) of this section as follows:

(i) The number of active, retiree, and beneficiary members of the pension and relief fund as of December 31, 2000, minus the number of active, retiree, and beneficiary members of the pension and relief fund as of the most recent December 31; and

(ii) The number of active, retiree, and beneficiary members of the Arkansas Local Police and Fire Retirement System plus the number of active, retiree, and beneficiary members of the pension and relief fund as of December 31, 2000;

(iii) In the case of multiple beneficiaries of a single deceased member, those beneficiaries shall be counted as one (1) for the purposes of this subdivision (a)(5)(C);

(iv) In the case of paid service and volunteer service members in one location, one (1) paid service member shall be equal to five (5) volunteer service members for the purposes of this subdivision (a)(5)(C).

(b)(1) All cities, towns, and fire protection districts participating in the Firemen's and Police Officers' Relief and Pension Fund as of April 15, 1999, shall receive at least seventy-five percent (75%) of its current level of premium tax distributions upon conversion to the distribution method prescribed in subsections (a) and (b) of this section. This threshold percentage may be used as a phase-in tool by the Arkansas Fire and Police Pension Review Board to accommodate the conversion of distribution for a period of five (5) years from April 15, 1999. The distribution of these funds shall be subject to subsection (a) of this section.

(2) All cities, towns, and fire protection districts having fire departments organized pursuant to §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, that have provided the information required in subdivision (a)(3) of this section to the Arkansas Fire and Police Pension Review Board shall qualify for participation in the taxes distributed for firemen's relief and pension funds under the Arkansas Fire and Police Pension Review Board.

(3) On or before December 15 of each calendar year until the year 2000, the Arkansas Fire and Police Pension Review Board shall certify to the Insurance Commissioner those cities, towns, and fire protection districts which have organized fire departments qualified to participate in the taxes described by §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(4) On or before June 15, 2001, the Arkansas Fire and Police Pension Review Board shall certify to the Department of Finance and Admin-

istration those cities, towns, and fire protection districts that qualify for distribution of premium taxes collected under §§ 23-60-102, 24-11-809, 26-57-601 — 26-57-605, and 26-57-607 for the 2000 tax year pursuant to the amended section determining qualification based on metes and bounds and population of the area. Certification shall be provided to the Department of Finance and Administration on all entities participating in the pension plan, including, but not limited to, those entities participating prior to the enactment of this legislation.

(5) On or before June 15, 2001, the Arkansas Fire and Police Pension Review Board shall certify to the Department of Finance and Administration the exact amount of tax revenues each city, town, or fire protection district is entitled to receive for the calendar year in which coverage began pursuant to subdivisions (a)(2), (a)(3), and (b)(1) of this section. Such information shall be provided each calendar year thereafter on or before June 15.

(6) The eligibility of the city, town, or fire protection district shall be continuous for a ten-year period without recertification unless otherwise directed by the board. The first year of implementation shall require a nine-year cycle from June 15, 2001. Thereafter, each city, town, or fire protection district shall resubmit the information required in subdivisions (a)(2) and (3) of this section every ten (10) years beginning on December 15, 2010.

(c) Each city, town, and fire protection district having a fire department qualified by either the Arkansas Fire and Police Pension Review Board or the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall be entitled to receive that portion of the tax described and levied by §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821 that is collected during the forthcoming calendar year.

(d)(1) It shall be the duty of the commissioner to keep a separate account of the tax paid by various insurance companies as provided by this act.

(2) The Treasurer of State shall keep the sums in a fund separate and apart from the general revenue, and the sums shall be used only for the purpose of this act.

(3) As soon as the commissioner prepares the report showing the amount of tax due each city, town, or fire protection district as provided in this section, he or she shall issue a voucher to the Chief Fiscal Officer of the State in favor of the treasurer of each city, town, or fire protection district for the benefit of the Firemen's and Police Officers' Pension and Relief Fund or the Arkansas Local Police and Fire Retirement System for the amount of the moneys which each city, town, or fire protection district shall be entitled to receive as shown by the report of the commissioner and shall deliver the warrant to the treasurer. These amounts shall be paid from the annual appropriations made to the State Insurance Department for that purpose. As of December 15, 2000, the provisions of this subsection shall be superseded by subdivision (b)(5) of this section.

(e) All nonprofit corporations formed for fire protection purposes and which participate in the Arkansas Local Police and Fire Retirement System created by § 24-10-101 et seq. shall participate in the distribution of insurance premium tax revenues to the same extent as other fire protection organizations under subsections (a), (b), and (e) of this section, §§ 24-10-401 — 24-10-409, 24-11-809, and 26-57-610, and any other laws providing for the distribution of insurance premium tax moneys to fire protection organizations.

(f) There shall be no administrative fees charged to these entities by the Arkansas Fire and Police Pension Review Board upon qualification. The board shall incur all administrative and actuarial costs associated with obtaining the information required pursuant to this section.

(g) The board shall establish a certain percentage of the insurance tax revenues to use to meet its proper actuarial expenses and administrative costs incurred in obtaining and evaluating the square mileage and population information required in subsections (a) and (b) of this section, but in no event shall the board be entitled to more than one percent (1%) of the Firemen's and Police Officers' Pension and Relief Fund as defined in § 24-11-809(a)(2). This assessment shall be collected in addition to the assessment provided in § 24-11-203(k)(5). This revenue shall also be used to provide the administrative costs incurred in obtaining and evaluating the square mileage and population information for unqualified cities, towns, and fire protection districts.

History. Acts 1921, No. 491, § 13; Pope's Dig., § 7749; Acts 1949, No. 488, § 2; 1965, No. 431, § 3; 1981, No. 595, §§ 3, 5, 6; 1985, No. 160, § 3; 1985, No. 754, §§ 2, 4, 5; A.S.A. 1947, §§ 12-3809, 19-2212.1, 19-2212.2, 19-2213; Acts 1987, No. 1033, § 5; 1999, No. 1288, § 1; 1999, No. 1570, § 4; 2001, No. 1539, § 2; 2001, No. 1543, § 7; 2001, No. 1701, §§ 6-8.

A.C.R.C. Notes. Acts 1999, No. 1570, § 6, provided: "The Department of Finance and Administration is authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions of §§ 24-11-301, 24-11-302, 24-11-809, and 24-11-810."

In reference to the phrase "prior to the enactment of this legislation" in subdivision (b)(4), Acts 1999, No. 1570 was signed by the Governor and became effective April 15, 1999.

Publisher's Notes. Acts 1987, No. 1033, § 10, provided: "The provisions of this Act as to premium taxes shall apply to all premiums which are collected in calendar year 1987 upon which the premium tax is reported and paid in 1988, and the provisions of this Act as to income taxes shall apply to all income years beginning on or after January 1, 1987."

Amendments. The 1999 amendment by No. 1288 added present (f) and (g).

The 1999 amendment by No. 1570 rewrote this section.

The 2001 amendment by No. 1539, substituted "visible" for "physical" in (a)(3)(A); inserted present (a)(3)(B); and redesignated former (a)(3)(B) as present (a)(3)(C), and made related changes.

The 2001 amendment by No. 1543, added (a)(5)(C).

The 2001 amendment by No. 1701, added (a)(2)(D)(iii); replaced the text of (a)(4)(A), which read: "The fire coordinator of each town, city, or fire protection district shall certify to the Arkansas Fire and Police Pension Review Board the accuracy of the metes and bounds legal description of the area and the population information"; and, in (g), substituted "board" for "Arkansas Fire and Police Pension Review Board," substituted "Firemen's and Police Officers' Pension and Relief Fund as defined in § 24-11-809(a)(2)" for "insurance tax revenues," and added the final sentence.

Meaning of "this act". See note to § 24-11-801.

24-11-811. Appropriations of insurance premium tax — Planned community property owners' associations.

(a) As used in this section, "planned community property owners' association" means an incorporated nonprofit organization operating under recorded land agreements through which each lot owner in a planned unit or other described land area is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common properties, and which acts as the directing or governing body of a real estate development developed by a single developer, containing not fewer than five thousand (5,000) acres, which has been or is being developed under a comprehensive plan for a community containing streets and other public services, parks, and other recreational facilities for common use by the residents thereof; which has been subdivided into sufficient lots for residential use to accommodate a projected population of no fewer than one thousand (1,000) persons; which is not incorporated as a city or town; and for which a statement of record has been filed with the Secretary of Housing and Urban Development under the Interstate Land Sales Full Disclosure Act.

(b) Any planned community property owners' association with a firemen's pension and relief fund established prior to July 1, 1981, under §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, shall participate in the distribution of insurance premium tax revenues to the same extent as fire departments and fire protection districts under §§ 24-11-809, 24-11-810, 24-10-401 — 24-10-409, and any other laws providing for the distribution of insurance premium tax moneys to fire departments or fire protection districts.

History. Acts 1983, No. 406, §§ 1, 2; Full Disclosure Act, referred to in this section, is codified as 15 U.S.C. § 1701 et seq.
A.S.A. 1947, §§ 19-2234, 19-2235.

U.S. Code. The Interstate Land Sales

24-11-812. Tax levy by city council.

(a)(1) After being once approved by a majority of those voting on the question at any general or special election of any city of the first or second class, a tax not to exceed one (1) mill on the dollar upon the assessed value of the real and personal property in the city shall be levied annually by the city for the purpose of paying fire fighters' retirement salaries and pensions and pensions to the widows and minor children of deceased fire fighters and the widows and minor children of deceased retired fire fighters.

(2) The levy shall be made by the city council, or other governing body of the city, on or before the time fixed by law for levying county taxes, and the city council or other governing body shall make out and certify to the county clerk the rate of taxation levied by the municipal corporation on the real and personal property within the city.

(3) The amount so certified shall be placed upon the tax book by the county clerk of the county and collected in the same manner that state and county taxes are collected. This amount shall be turned over to the board of trustees of the firemen’s relief and pension fund of the city, as created under §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(b)(1) However, in those cities which do not have a firemen’s pension and relief fund but which cover their fire fighters under the Arkansas Local Police and Fire Retirement System, the levy shall also be allowed when approved by a majority of the qualified electors of the cities or towns participating in any election on the question and held at the time of any election in the city, whether state, city, special, or federal, or at a special election for the purpose of voting on the question.

(2) The election may be held in connection with the first general city election following the passage and approval of this subsection, but the failure to submit at the city or other election shall not defeat the right of submission at any subsequent election.

(3) Upon the filing with the county board of election commissioners, not later than sixty (60) days before the date of the election, of a petition signed by twenty (20) or more qualified electors of the city or town affected, stating the amount of tax to be voted on, not to exceed one (1) mill on the dollar, and praying that the question of a firemen’s pension be submitted, it shall be the duty of the county board of election commissioners to place the question upon the ballot.

(4) In the event that, for any reason, the question of a firemen’s pension is not voted upon in the next general city election after the passage and approval of this subsection, the question may be submitted at any other general or special election held in the city or town as provided in this subsection.

(5) The ballot shall state the amount of tax being voted on and the purpose thereof, and the question on the ballot shall be as follows:

- “FOR Firemen’s Pension ☐
- AGAINST Firemen’s Pension ☐

(c) The levy, once so approved, shall be certified in the same manner as provided in this section and shall be collected and turned over to the city for the sole purpose of payment for coverage of employees under the Arkansas Local Police and Fire Retirement System.

(d) A vote on the question of the tax provided for in this section shall be had in the same manner that the Constitution and laws of this state provide for the initiation of measures in municipalities.

(e) The funds provided for in this section shall be supplemental to and in addition to any funds provided for by any laws in effect at the time of the passage of this section, shall become part of the firemen’s relief and pension fund of the city, as created under §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, and shall be administered by the board of trustees created by those sections, for the same class of beneficiaries and in the same manner as the funds provided for in §§ 24-11-801 — 24-11-807,

24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, since it is the specific intention of this section not to repeal §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, or any amendments thereto, but rather to provide additional money for the firemen's relief and pension fund.

(f) In those cities which do not have a firemen's pension and relief fund but which cover their fire fighters under the Arkansas Local Police and Fire Retirement System, the funds shall be applied to each city's account in that system in such manner and amounts as determined by the board of trustees of that system.

History. Acts 1941, No. 14, §§ 1, 2, 4; 1985, No. 901, §§ 1, 2; A.S.A. 1947, §§ 19-2214, 19-2215, 19-2217; Acts 1989, No. 341, § 2.

Publisher's Notes. In reference to the term, "passage of this section," Acts 1941, No. 14 was signed by the Governor and

took effect on January 30, 1941.

In reference to the term, "passage and approval of this subsection," Acts 1985, No. 901 was signed by the Governor on April 15, 1985, and took effect on June 28, 1985.

CASE NOTES

ANALYSIS

Effective date.

Failure to make levy.

Effective Date.

Ordinance adopting pension tax was in full force and effect on the first moment of the day it was adopted. *McLaughlin v. Lovett*, 204 Ark. 708, 163 S.W.2d 826 (1942).

Failure to Make Levy.

That city authority made no levy of any

part of the one mill provided by ordinance cannot defeat right to pension for the reason that this section was intended to give to the governing bodies of cities and towns affected the discretionary power to supplement fund created by existing act by levying and collecting additional tax if necessary. *McLaughlin v. Lovett*, 204 Ark. 708, 163 S.W.2d 826 (1942).

Cited: *Daley v. City of Little Rock*, 319 Ark. 440, 892 S.W.2d 254 (1995).

24-11-813. Clerk's report to pension review board.

It is made the duty of the clerk of each city, town, or fire improvement district in which an organized firemen's pension and relief fund is maintained to file on or before December 31 of each year a report with the Arkansas Fire and Police Pension Review Board of the number of fire fighters with their names, dates of appointment, dates of retirement, birth dates, amounts of pensions paid, and other information as required by the pension review board.

History. Acts 1921, No. 491, § 16; 9879; Acts 1985, No. 754, § 3; A.S.A. 1947, 1927, No. 214, § 1; Pope's Dig., §§ 7752, § 19-2224.

CASE NOTES

Collateral Attack of Records.

Ex-fireman held to have delayed pen-

sion claim too long to be allowed to collaterally attack city, fire department, and

state records by oral testimony contradictory thereof. *Firemen's Relief & Pension Fund v. Rittman*, 198 Ark. 580, 129 S.W.2d 595 (1939).

24-11-814. Subjection of fund to legal process.

(a) Either before or after its order of disbursement by the board to disabled members of the fire department, or to the widow, guardian of any minor children, or dependent parent of the deceased or retired member of the department, no portion of the pension fund shall be held, seized, taken, subjected to, detained, or levied on by virtue of any attachment, garnishment, execution, injunction, or other order or decree, or any process or proceeding whatever, issued out of or by any court of this state, for the payment or satisfaction, in whole or part, of any debt, damages, claim, demand, or judgment against a member, his or her widow or widower, the guardian of his or her minor children, or the dependent parent of any deceased member, nor shall the fund or any claim thereto be directly or indirectly assigned or transferred, and any attempt to so assign or transfer shall be void.

(b) The fund shall be sacredly held, kept, and distributed for the purpose of pensioning the persons named in this act and for no other purpose whatever.

History. Acts 1921, No. 491, § 18; Pope's Dig., § 7754; A.S.A. 1947, § 19-2226. **Meaning of "this act".** See note to § 24-11-801.

24-11-815. Appeals.

Any person possessing the qualifications required under this act who deems himself or herself aggrieved by the decision of any board of trustees of the firemen's relief and pension fund, either in rejecting his or her claim or in the amount allowed by the board, or any city or town feeling itself aggrieved by any such decision, may appeal from the decision to the circuit court of the county in which the town or city liable for the claim may be located in the same manner and within the same time as provided for appeals from justices of the peace to circuit courts in civil cases.

History. Acts 1921, No. 491, § 21; Pope's Dig., § 7757; A.S.A. 1947, § 19-2228. **Meaning of "this act".** See note to § 24-11-801.

CASE NOTES

Time Limitations.

Where fireman failed to file a timely notice of appeal, the board's decision setting his benefits became final, and the circuit court was without authority to re-

view the case; a dismissal with prejudice therefore was correct. *Earp v. Benton Fire Dep't*, 52 Ark. App. 66, 914 S.W.2d 781 (1996).

24-11-816. Membership — Contributions.

(a)(1) Within sixty (60) days from July 1, 1975, each full-paid fire fighter and each part-paid fire fighter whose salary is fifty dollars (\$50.00) or more per month, each part-paid fire fighter whose salary is less than fifty dollars (\$50.00) per month, and each active volunteer fire fighter employed in the fire department of any city or town in this state, who desires that he or she and his or her beneficiaries participate in the firemen's relief and pension fund of the city or town, as created under §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, shall file a statement with the secretary of the board of trustees of the firemen's relief and pension fund of the city or town. This statement, in writing under oath, shall state that he or she desires that he or she and his or her beneficiaries participate in the benefits from the fund.

(2) The statement shall include the name and age of those persons immediately dependent upon him or her and shall authorize the governing body of the city to deduct from his or her salary such percentage, not less than six percent (6%) thereof, as may be approved for deduction by the local firemen's pension board.

(3) The statement of an active volunteer fire fighter shall include a promise and an obligation to pay to the board of trustees the sum of twelve dollars (\$12.00) per year.

(4) Any municipality or fire protection district in which a firemen's pension and relief fund is established shall contribute to the firemen's pension and relief fund an amount:

(A) Not less than six percent (6%) of the fire fighter's salary; or

(B) Equal to the contribution paid by any volunteer fire fighters who are members of the fund.

(b)(1) In the event a former member again becomes an employee of the same fire department where previously employed, the fire fighter shall again become a member of the system and the credited service forfeited by him or her shall be restored to his or her credit if he or she returns to the fund the amount refunded to him or her plus interest from the date of withdrawal to the date of repayment.

(2)(A) The interest rate to be paid shall be equal to the fund's average investment rate of return as indicated in the last three (3) annual accountant's reports, but in no event less than six percent (6%).

(B) The repayment shall be made according to such rules and regulations as the board shall adopt from time to time.

(3) Any employee who has become a member of the Arkansas Local Police and Fire Retirement System shall remain a member of that system.

(c)(1) Any fire fighter who fails or refuses to make and file the statement required by this section to allow deductions from his or her salary or to pay the amount required by this section shall forfeit his or

her right to participate in the benefits provided by the firemen's relief and pension fund of the city or town.

(2) This section shall not apply to any fire fighter heretofore retired who has a vested right to participate in the fund because he or she has completed the required length of service or because of physical or mental disability incurred in the performance of his or her duty, nor shall this section apply to any fire fighter who has a vested right to participate in the fund because he or she has completed the required length of service and who has elected to continue in active service.

(d)(1) If any fire fighter shall elect not to participate in the fund, his or her salary shall not be liable for any deductions nor shall he or she be required to pay as provided in this section.

(2) In the event of the resignation or discharge from the fire department of any member, all moneys deducted from the salary of the person or voluntarily paid by the person shall immediately be returned to him or her without interest. However, there shall be deducted from the refund the amount which has been expended by the board of trustees, as authorized under § 24-11-803(c), for the purchase of group insurance and payment of premiums thereon for the benefit of the fire fighter.

(e)(1) All moneys provided for the fund by this section shall be paid to and received by the treasurer of the city or town for the sole use and benefit of the firemen's relief and pension fund, and the fund shall be used for no other purpose.

(2) The additional duties thus imposed upon the treasurer shall be and comprise additional duties for which he or she shall be liable under his or her oath and bond as the city or town treasurer.

(f)(1) The funds provided for by this section shall be supplemental to and in addition to any fund provided for by any laws in effect at the time of the passage of this section, shall become a part of the firemen's relief and pension fund, as created under §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, and shall be administered by the board of trustees created by those sections, in the same manner as the funds provided therein.

(2) It is the specific intention of this section not to repeal §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, but rather to provide additional money for the firemen's relief and pension fund, as created under Acts 1921, No. 491.

History. Acts 1951, No. 82, §§ 1-5; A.S.A. 1947, §§ 19-2221.1 — 19-2221.5; 1975, No. 450, § 3; 1981, No. 486, § 1; Acts 1987, No. 389, §§ 2-4. 1983, No. 586, § 1; 1985, No. 244, § 1;

CASE NOTES

ANALYSIS

Construction.

Resignation or discharge.

Construction.

Subdivision (b)(3) is irrelevant in determining membership in the Firemen's Relief and Pension Fund. *Daley v. City of*

Little Rock, 319 Ark. 440, 892 S.W.2d 254 (1995). fighter terminates membership in the Firemen's Relief and Pension Fund. Daley v. City of Little Rock, 319 Ark. 440, 892 S.W.2d 254 (1995).

Resignation or Discharge.

Resignation or discharge as a fire

24-11-817. Credit for military service.

(a) In the event an active member of a firemen's pension and relief fund established under §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, entered or enters the armed forces of the United States during any period of voluntary or compulsory military service, the armed service actually served by him or her shall be credited him or her as service under this section, but only if he or she again becomes an employee within a period of one (1) year from and after honorable termination of the armed service actually served by him or her and he or she returns to the system the amount, if any, he or she may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(b) In any case of doubt as to the period of armed service to be so credited, the board shall have the final power to determine the period.

(c) During the period of armed service and until the member's return as an employee, his or her contributions to the system shall be suspended, and any balance not withdrawn shall remain on the books to his or her credit.

History. Acts 1985, No. 227, § 1; A.S.A. 1947, § 19-2236; Acts 1995, No. 1290, § 2.

24-11-818. Benefits — Voluntary retirement.

(a)(1)(A) As used in this section, unless the context otherwise requires, the term "salary" shall mean recurring pays which are received for the fire fighter's regularly scheduled workweek and shall not include, except as otherwise provided in subdivision (a)(1)(B) of this section, payments for unused accrued sick leave or annual leave or the cash value of any nonrecurring or unusual remunerations.

(B)(i) The term "salary" may include the payments to fire fighters for unused accrued sick leave not to exceed ninety (90) workdays recorded on the records of the city or town as of the fire fighter's date of retirement, provided the municipality agrees by ordinance to make adequate contributions to the fund to cover the additional costs for the benefits from the increased salary and the fund is judged by an actuarial determination to be actuarially sound.

(ii) The board of trustees shall determine the actuarial costs of the payments for the unused accrued sick leave to the fund.

(2) Any pension fund member who has served in a fire department in the State of Arkansas for a period of twenty (20) years or more, the last

five (5) years of which shall have been consecutive, shall be entitled to be retired and receive from the fund a monthly pension equal to one-half ($\frac{1}{2}$) of the salary attached to the rank he or she held as a volunteer, part-paid, or full-paid member.

(b) Any fire fighter who shall have completed the period of service as provided for in this section shall receive from the board a certificate showing that he or she has completed the term of service required and is entitled to participate in all the benefits provided for in this act upon compliance with, and subject to, all the other terms and conditions of this act, whether he or she severs his or her connections or continues in service at the expiration of the time as set out in subdivision (a)(2) of this section. The right to participate in the fund shall become a vested right and shall not be lost by the termination of his or her services with or without cause.

(c) Any full-paid fire fighter who is already retired shall not receive less than three hundred fifty dollars (\$350) per month.

(d)(1)(A)(i) Any full-paid fire fighter who has more than twenty (20) years of service at the time of retirement shall be entitled to receive the sum of twenty dollars (\$20.00) per month in addition to his or her regular retirement pay for each full year worked over and above twenty (20) years.

(ii) In no instance shall he or she receive more than one hundred dollars (\$100) per month in addition to his or her regular benefits.

(B)(i) Any volunteer or part-paid fire fighter who has more than twenty (20) years of service at the time of retirement shall be entitled to receive the sum of ten dollars (\$10.00) per month in addition to his or her regular retirement pay for each full year worked over and above twenty (20) years.

(ii) In no instance shall he or she receive more than fifty dollars (\$50.00) per month in addition to his or her regular benefits.

(2) The increase in benefit levels provided in this subsection for service beyond twenty (20) years shall apply only to those fire fighters who retire on or after January 1, 1987, and, notwithstanding the provisions of § 24-11-826, may exceed one hundred percent (100%) of final salary.

(e) A volunteer or part-paid fire fighter who becomes a full-paid member of his or her fire department shall be eligible to retire as a full-paid member only if he or she shall have been employed as a full-paid member for a period of at least five (5) years immediately prior to his or her retirement.

(f)(1) For purposes of this subsection, the term "compensation" shall not include:

(A) Any money received by the retired fire fighter for replacement of personal clothing or equipment destroyed during the performance of active service to a fire department; or

(B) Any expenditures by a municipality, as determined on a case-by-case basis, on behalf of the retired fire fighter for hospitalization insurance benefits.

(2) Notwithstanding the provisions of subsection (a) of this section or any other law to the contrary, a person retired from the service of a fire department may remain actively involved in the fire department, provided the person does not receive compensation for the service provided.

(3) Service to a fire department under subdivision (f)(2) of this section shall not cause any suspension of retirement benefits payable under § 24-11-801 et seq., nor shall such service be interpreted by any board administering funds under § 24-11-801 et seq. as a reinstatement of employment in a fire department.

History. Acts 1921, No. 491, § 4; Pope's Dig., § 7740; Acts 1943, No. 167, § 2; 1953, No. 68, § 1; 1955, No. 77, § 1; 1957, No. 265, § 1; 1967, No. 233, § 1; 1983, No. 611, § 1; A.S.A. 1947, § 19-2204; Acts 1987, No. 389, § 1; 1987, No. 396, § 1; 1987, No. 797, § 1; 1989, No. 182, §§ 1-3; 1993, No. 546, § 3; 1993, No. 1197, § 3; 1999, No. 901, § 1; 1999, No. 1114, § 1.

A.C.R.C. Notes. Acts 1993, No. 1197, § 6, provided: "The increased benefits provided for under the provisions of this act shall only be paid provided the retirement funds are actuarially sound after the

increase as determined by the actuary for the Arkansas Fire and Police Pension Review Board."

Amendments. The 1999 amendment by No. 901 added the language beginning "and, notwithstanding" in (d)(2); and made stylistic changes.

The 1999 amendment by No. 1114 added the language beginning "or any expenditures by a municipality" in (f)(1); and made stylistic changes.

Meaning of "this act". See note to § 24-11-801.

CASE NOTES

ANALYSIS

Certificate.
Sick leave.

Certificate.

Certificates on file with state agency showing service of fireman import verity unless reformed and corrected by a suit in equity for fraud or demonstrable mistake in execution, and this must be by direct attack in an independent action wherein all necessary parties are before the court. Board of Trustees Firemen's Relief & Pension Fund v. Buerkle, 193 Ark. 157, 97 S.W.2d 914 (1936).

Ex-fireman held to have delayed pension claim too long to be allowed to collaterally attack the city and fire department records, or the certificate made to the state, by oral testimony contradictory thereof. Firemen's Relief & Pension Fund v. Rittman, 198 Ark. 580, 129 S.W.2d 595 (1939).

Sick Leave.

The word "salary," as used in this section, does not include payment for unused accumulated sick leave. Combs v. Cheek, 283 Ark. 69, 671 S.W.2d 177 (1984).

Cited: Daley v. City of Little Rock, 319 Ark. 440, 892 S.W.2d 254 (1995).

24-11-819. Benefits — Disability retirement.

(a)(1) Any fire fighter who becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as a result of personal injury or disease may be retired by the board, upon written application filed by or on behalf of the member, if, after medical examination of the member made by or under the direction of a physician designated by the board, the physician reports in writing that the member is physically or mentally totally incapacitated for the

further performance of any suitable duty, that the incapacity will probably be permanent, and that the fire fighter should be retired.

(2) The benefit amount shall be as follows:

(A) If the disabling injury or disease occurred while not actually performing work in gainful employment for the fire department, the monthly benefit shall be equal to the benefit paid to normal service retirants; or

(B)(i) For a full-paid fire fighter who is injured in the line of duty, the monthly disability benefit shall either be equal to sixty-five percent (65%) of the salary attached to the rank held by the member in the fire department or shall be equal to the benefit paid to normal service retirants, whichever is greater.

(ii)(a) For purposes of this section, "injured in the line of duty" means a disabling injury or disease that occurs while conducting official fire department operations or while in training to become a fire fighter.

(b) The board shall determine whether the disability occurred in the line of duty and may require any medical evidence, official reports, expert testimony, or other information to be supplied by the applicant in addition to the required physician's examination and report.

(iii)(a) The additional benefits provided in this section shall be effective for all qualifying applications first received by the board on or after January 1, 1987, except that the board of trustees of any municipal firemen's pension and relief fund or of the Arkansas Local Police and Fire Retirement System may increase the benefits for any disabled fire fighter injured in the line of duty before January 1, 1987, but after January 1, 1983, if the board adopts a resolution to extend the benefit retroactively to those fire fighters and if the fund will remain actuarially sound as determined by an actuary for the Arkansas Fire and Police Pension Review Board or the Arkansas Local Police and Fire Retirement System.

(b) The disability benefit provided in this section shall continue to be paid to the fire fighter so long as he or she is retired and shall not be reduced to the regular service annuity amount, if less, when the retirant reaches the normal retirement age.

(iv) Upon the death of the retirant, any survivor benefits shall be based upon the normal service retirement annuity amount.

(3) For purposes of computing all benefits, "salary" means recurring pays which are received for a regularly scheduled workweek and shall not include payments for unused accrued sick leave or annual leave or the cash value of any nonrecurring or unusual remunerations.

(4) Any disability benefit approved under this section shall be effective the first day of the calendar month next following the latter of either the fire fighter's termination of active membership or six (6) months before the date the written application was filed with the board.

(5) In the event that a fire fighter's disability ceases, his or her benefit shall also cease, and he or she shall be returned to active service

at not less than the same salary he or she received at the time of his or her retirement.

(b)(1) No person shall be retired as provided in this section or receive any pension from the fund unless there shall be filed with the board certificates of his or her disability. The certificates shall be subscribed and sworn to by the person and by the city or town physician, if there is one, and by the firemen's relief and pension fund physician.

(2) The board may require other evidence of disability before ordering the retirement and payment as provided in this section.

(c)(1) At least once each year during the first five (5) years, or as often as required by the board following a member's retirement for disability and at least once each three (3) years thereafter, the board may require any disability retiree who has not attained the normal retirement age to undergo a medical examination by or under the direction of a physician or physicians designated by the board.

(2) If the retiree refuses to submit to the medical examination in any period, his or her disability annuity may be suspended by the board until he or she complies with the provisions of this section.

(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability annuity may be revoked by the board.

(4) If, upon such medical examination of the retiree, the physician reports to the board that the retiree is physically and mentally able and capable of resuming suitable duty as an employee, his or her disability retirement shall terminate.

History. Acts 1921, No. 491, §§ 5-7, 9; Pope's Dig., §§ 7741-7743, 7745; Acts 1955, No. 76, § 1; 1957, No. 95, § 1; 1968 (1st Ex. Sess.), No. 24, § 6; A.S.A. 1947, §§ 19-2205 — 19-2207, 19-2209; Acts 1987, No. 325, § 1; 1989, No. 375, § 1; 1989, No. 390, § 1; 1989, No. 391, § 1; 1991, No. 391, § 1; 1991, No. 844, § 1; 2001, No. 1806, § 1.

Amendments. The 2001 amendment made minor stylistic and neutral gender changes in (a)(2)(B)(ii)(a) and (a)(2)(B)(iii)(b); and added "except that the board of trustees...and Fire Retirement System" in (a)(2)(B)(iii)(a).

Meaning of "this act". See note to § 24-11-801.

Publisher's Notes. Acts 2001, No. 1806, § 2, provided: "This act applies retroactively to authorize the board of trustees of the Local Police and Fire Retirement System or of any municipal firemen's pension and relief fund which will remain actuarially sound to allow a fire fighter who was disabled from an injury in the line of duty after January 1, 1983, but before January 1, 1987, to receive the benefit of sixty-five percent (65%) of the salary attached to his rank, except that benefit payments shall not be made retroactive to the effective date of the fire fighter's disability."

CASE NOTES

ANALYSIS

Benefits denied.
Certification of disability.
Effect of discharge.
Effect of noncompliance.
Payments.

Benefits Denied.

Disabled fireman was not entitled to pension when act for which he was discharged caused his disability and he had not pursued appeal from the discharge. *Hughes v. Firemen's Relief & Pension*

Fund, 231 Ark. 877, 333 S.W.2d 716 (1960).

Certification of Disability.

Doctor's letter report of his evaluation of employee stating that employee's condition was correctible but that employee preferred to pursue disability retirement proceedings was not a certification of employee's disability, as required by this section. Breckenridge v. Board of Trustees, 303 Ark. 500, 798 S.W.2d 85 (1990).

Effect of Discharge.

Discharge terminates an employee's right to a disability pension. Daley v. City of Little Rock, 319 Ark. 440, 892 S.W.2d 254 (1995).

Effect of Noncompliance.

Failure to file certificate of disability, where there was no waiver by the pension board, would bar action to secure pension,

as the filing is a prerequisite to the allowance of a disability claim. Firemen's Relief & Pension Fund v. Hughes, 229 Ark. 730, 318 S.W.2d 145 (1958).

Noncompliance with this section is fatal to suit to secure a pension and suit should be dismissed, but without prejudice to petitioner's right to thereafter comply with section and have further proceedings. Firemen's Relief & Pension Fund v. Hughes, 229 Ark. 730, 318 S.W.2d 145 (1958).

Payments.

Pension payments from a Firemen's Relief and Pension Fund should begin upon retirement; they need not be made retroactive to the date of the disability upon which the retirement is based. Firemen's Pension Fund v. Brown, 290 Ark. 611, 720 S.W.2d 922 (1986).

24-11-820. Benefits — Death of active or retired member other than while employed outside department.

(a)(1) Whenever any member of a fire department of any city, town, or fire improvement district covered by this act shall have lost his or her life, except while actually performing work in gainful employment outside the fire department, or any retired member shall die, leaving a spouse, or children under the age of nineteen (19), then, upon satisfactory proof of those facts made to it, the board of trustees shall order and direct, in the case of volunteer or part-paid fire fighters, that a monthly pension equal to the amount of the pension or retirement pay attached to the rank of the member of the fire department at the time of his or her death shall be paid for life to the spouse, and the monthly pension shall not be less than thirty dollars (\$30.00).

(2) In the case of full-paid fire fighters' classifications, a monthly pension shall be paid for life to the spouse in the amount of the pension received by the retired fire fighter at the time of his or her death, or the amount of the pension to which the member would have been entitled on the day he or she died had he or she been retired, but in no event shall the benefit of the spouse be less than three hundred fifty dollars (\$350) per month, regardless of whether the spouse has already been receiving pension payments, and regardless of whether the fire fighter was on active duty or retired.

(b)(1)(A) In addition to the monthly pension provided in subsection (a) of this section, the board of trustees may order and direct the payment of, in the case of volunteer or part-paid fire fighters, the sum of twenty-five dollars (\$25.00) per month for each child under nineteen (19) years of age who has not completed high school and, in the case of full-paid fire fighters, the sum of one hundred twenty-five

dollars (\$125) per month for each child under nineteen (19) years of age who has not completed high school.

(B) However, if the child enrolls in an institution of higher education after completing high school, the payments shall continue as long as the child is a full-time student, but in no instance beyond the child's twenty-third birthday.

(2)(A) If there is no eligible spouse at the time of the member's death, then the total sums shall be paid to his or her children until they shall have reached nineteen (19) years of age or until the children have completed high school, whichever occurs first.

(B) However, if a child enrolls in an institution of higher education after completing high school, the payments shall continue as long as the child is a full-time student, but in no instance beyond the child's twenty-third birthday.

(3) The sum total of the pension to be paid the spouse or the qualifying children of volunteer or part-paid fire fighters shall not exceed one-half ($\frac{1}{2}$) of the salary attached to the rank the member held at the time of his or her death as an active member of a volunteer or part-paid fire department, nor shall it be less than thirty dollars (\$30.00) per month.

(4) If any spouse or child shall marry, then the person so marrying shall thereafter receive no further pension from the funds provided for the operations of this act.

(5) If any retired fire fighter shall marry after his or her retirement, the spouse, or that spouse's children, shall not receive benefits from the funds.

(c)(1) In computing service required under this section for eligibility to participate in benefits, service shall be computed from the day the person from whom benefits are derived was duly appointed and enrolled in some fire department in the State of Arkansas as a fire fighter, and the service shall be considered in determining eligibility for benefits regardless of whether it was performed before or after the passage of §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(2) It is the intention of this act that all spouses and dependent children of full-paid, part-paid, and volunteer fire fighters shall receive at least the minimum benefits prescribed in this section, regardless of whether the service upon which the spouses or dependent children derived the benefit was performed before or after the passage of §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(d) Any payment of benefits above the minimum amounts stated in this section shall not be made except upon determination that the fund will remain actuarially sound.

(e)(1) It is the intention of this section to make eligible for benefits the spouses and dependent children of members who died from illness after leaving active service or who died after being retired for a duty-related injury, as described in this section, regardless if the

service, retirement, or death occurred before or after the passage of this section.

(2) However, payment to survivors made eligible by this section shall not be made retroactively but shall begin with the passage of this section.

(f)(1) If a retirant and, if any, his or her eligible beneficiary both die before they have received in annuity payments a total amount equal to the accumulated contributions, including any interest credits, standing to the retirant's credit in the system at the time of his or her retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such person or persons as the retirant shall have nominated by written designation duly executed and filed with the board.

(2) If no designated person survives the retirant and his or her beneficiary, the difference shall be paid to the estate of the survivor of the retirant and his or her beneficiary.

History. Acts 1921, No. 491, § 8; Pope's Dig., § 7744; Acts 1943, No. 167, § 3; 1953, No. 68, § 2; 1955, No. 77, § 2; 1957, No. 94, § 1; 1969, No. 69, § 1; 1981, No. 253, § 1; 1983, No. 48, § 1; 1983, No. 397, §§ 1, 3; 1985, No. 145, §§ 1, 2; A.S.A. 1947, §§ 19-2208, 19-2208n, 19-2208.1; Acts 1989, No. 821, § 9; 1993, No. 1197, § 4; 1997, No. 536, § 1.

A.C.R.C. Notes. Acts 1993, No. 1197, § 6, provided: "The increased benefits provided for under the provisions of this act shall only be paid provided the retirement funds are actuarially sound after the increase as determined by the actuary for the Arkansas Fire and Police Pension Review Board."

Acts 1997, No. 695, § 1, codified as § 24-10-617, provided: "(a) When a municipal employee who is vested in a municipal retirement system under the Arkansas Local Police and Fire Retirement System, § 24-10-101, et seq., or under a local police pension and relief fund, § 24-11-401, et seq., or under a fire pension and relief fund, § 24-11-801, et seq., is killed or dies in the course of his employment and is survived by a spouse, or has surviv-

ing dependents actively drawing a benefit from those municipal retirement systems, then the surviving spouse or surviving dependents may continue to participate in the municipality's health care plan as long as the surviving spouse or surviving dependents pay both employer and employee contributions to the health care plan.

"(b) Provided, however, a surviving spouse or surviving dependent may qualify to continue on the health care plan only so long as they remain an eligible beneficiaries under the retirement system."

Publisher's Notes. In reference to the term "passage of this section," which first appeared in the 1985 amendment, Acts 1985, No. 145 was signed by the Governor and became effective on February 18, 1985.

Amendments. The 1997 amendment added the last sentence in (b)(1) and (b)(2).

Meaning of "this act". See note to § 24-11-801.

Cross References. Applicability of this section, § 24-11-832.

24-11-821. Benefits — Cessation of payments.

(a) When any person who shall have received any benefits from the fund shall be convicted of any felony, shall become an habitual drunkard, shall fail to report himself or herself for examination for duty as required in this act, unless excused by the board, or shall disobey the requirements of the board under this act in respect to the examination

for duty, then the board shall order that the pension or allowance as may have been granted to the person shall immediately cease. That person shall receive no further pension, allowance, or benefit under this act, but in lieu thereof, the pension, allowance, or benefit may be paid to those immediately dependent upon him or her or his or her legally appointed guardian.

(b) In the event the chief or any member of the fire department shall be removed or discharged without just cause, the removal or discharge shall not in any way affect the right of the person to the benefits of this act. At the time of the discharge or removal of the person, the board shall investigate and determine whether the removal or discharge was without just cause and shall make a report of its findings, and any person feeling himself or herself aggrieved by the decision of the board shall have the right to appeal therefrom to the circuit court of the county in the method provided for appealing from decisions of the justices of the peace in civil cases.

(c) In the event it shall be determined on appeal that the removal was without just cause, then the person so removed shall be reinstated by the board and shall be entitled to all the rights under the provisions of this act.

History. Acts 1921, No. 491, § 10; Pope's Dig., § 7746; A.S.A. 1947, § 19-2210.

Meaning of "this act". See note to § 24-11-801.

CASE NOTES

| | |
|---|---|
| ANALYSIS | Pension Fund, 231 Ark. 877, 333 S.W.2d 716 (1960). |
| Applicability. | |
| Appeal. | |
| Discharge. | Discharge. Subsections (b) and (c) provide that benefits will be discontinued if a determination is made that the fire fighter was discharged for cause. Daley v. City of Little Rock, 319 Ark. 440, 892 S.W.2d 254 (1995). |
| Applicability. | Discharge terminates an employee's right to a disability pension. Daley v. City of Little Rock, 319 Ark. 440, 892 S.W.2d 254 (1995). |
| Where former fire fighter never received any benefits, subsection (a) did not apply to him. Daley v. City of Little Rock, 319 Ark. 440, 892 S.W.2d 254 (1995). | Cited: Firemen's Relief & Pension Fund v. Hughes, 229 Ark. 730, 318 S.W.2d 145 (1958). |
| Appeal. | |
| Fireman was not entitled to pension where he did not appeal ruling of circuit court sustaining the action of the civil service commission in discharging him for just cause. Hughes v. Firemen's Relief & | |

24-11-822. Benefits — Payments upon death of retirant or beneficiary.

(a)(1) If a retirant and his or her eligible beneficiary, if any, of a local firemen's pension and relief fund authorized by § 24-11-801 et seq., both die before they have received in annuity payments a total amount equal to the accumulated contributions, including any interest credits standing to the retirant's credit in the system at the time of his or her

retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to the estate of the retirant or the estate of the retirant's beneficiary.

(2) If the retirant or the retirant's beneficiary dies intestate, the difference shall be paid to the heirs of the retirant or the retirant's beneficiary according to the Arkansas laws of descent and distribution, § 28-9-201 et seq., without regard to the residence of the retirant or the retirant's beneficiary at the time of death upon submission of sufficient proof of heirship to the board.

(b) If an active member dies and does not leave a beneficiary entitled to an annuity payment, the difference between the accumulated contributions, including any interest credits standing to the member's credit in the system at the time of his or her death, and the total amount of annuities received by him or her shall be paid to the estate of the member, or if the member dies intestate, shall be distributed to his or her heirs according to the Arkansas laws of descent and distribution, § 28-9-201 et seq., without regard to the residence of the member at the time of his or her death upon submission of sufficient proof of heirship to the board.

(c) The payments shall be made by the board in accordance with the order of the circuit court in cases involving an estate or directly to those authorized to receive payments according to the Arkansas laws of descent and distribution in cases of intestacy.

History. Acts 1989, No. 409, § 1.

A.C.R.C. Notes. References to "this subchapter" in §§ 24-11-801 — 24-11-821, 24-11-823, and 24-11-824 may not apply to this section which was enacted subsequently.

Publisher's Notes. Former § 24-11-822, concerning increase in benefits generally, was repealed by Acts 1987, No. 279, § 3. The section was derived from Acts 1981, No. 951, § 1; 1983, No. 505, § 1; A.S.A. 1947, § 19-2233.

Acts 1989, No. 409, § 2, provided: "The provisions of this act shall be retroactive to January 1, 1988. The Board of Trustees of any fund hereunder is hereby directed to refund any accumulated contributions to the proper estate or heirs which would have been payable had the provisions of this act been in full force and effect since January 1, 1988 for any death occurring subsequent to that date."

24-11-823. Increase in benefits for certain persons retired due to total permanent disability.

(a) The board of trustees of any municipal firemen's pension and relief fund may increase benefits to persons who have retired or may retire from the fire department of the municipality because of total and permanent disability, and who qualify or may qualify for monthly benefits of less than five hundred dollars (\$500).

(b) The benefits of any such person shall not be increased to more than five hundred dollars (\$500) per month, and the increase shall be subject to the following conditions:

(1) The board of trustees shall adopt a resolution approved by not less than three-fourths ($\frac{3}{4}$) of the membership of the board outlining the proposed increase in benefits;

(2) The board shall obtain an evaluation by an actuary stating that the fund will continue to be actuarially sound notwithstanding the effects of the resolution; and

(3) A copy of the resolution adopted by the board and a copy of the actuarial evaluation approving the resolution shall be filed with the circuit clerk of the county wherein the fire department is located, with the Arkansas Fire and Police Pension Review Board, and, if the fire department is located within the incorporated boundaries of a city, with the city clerk of that city.

History. Acts 1985, No. 619, § 1;
A.S.A. 1947, § 19-2233.1.

24-11-824. Fire protection districts.

(a) Any fire protection district in this state formed pursuant to §§ 14-284-101 — 14-284-121 and maintaining a fire department within that district shall be eligible to establish by resolution of the commissioners of the district a firemen's relief and pension fund covering the employees of that fire department.

(b)(1) The board of commissioners of the district together with the chief of the fire department of the district shall constitute the board of trustees of the firemen's relief and pension fund of the district and shall designate the beneficiaries thereof in the same manner and with the same qualifications as specified in §§ 24-11-801 — 24-11-807, 24-11-809 — 24-11-811, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821 for the designation of beneficiaries of firemen's relief and pension funds in cities and towns of this state.

(2) The firemen's relief and pension fund authorized by this section shall be operated in the same manner and governed by the same procedures as specified in §§ 24-11-801 — 24-11-807, 24-11-809 — 24-11-811, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821. The boards of trustees of firemen's relief and pension funds established pursuant to this section shall have the same powers and be subject to the same limitations imposed on, and granted to, those boards of trustees of firemen's relief and pension funds established by §§ 24-11-801 — 24-11-807, 24-11-809 — 24-11-811, 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(c) In addition to the funds provided by § 24-11-809 from insurance premium taxes, there shall also be added the following moneys:

(1) All money given or donated to the fund; and

(2)(A) One percent (1%) of the monthly salary of each member of the department, to be deducted each month by the district and immediately paid to the board of trustees of the firemen's relief and pension fund.

(B) However, in the event of resignation or discharge from the fire department of any member thereof, all money deducted from his or her salary shall be immediately returned to him or her without interest.

(d)(1) In the event the fire protection district maintaining a firemen's relief and pension fund pursuant to this section should be merged with, and become a part of, any city or town of this state having a firemen's relief and pension fund pursuant to §§ 24-11-801 — 24-11-803, 24-11-805 — 24-11-810, 24-11-812 — 24-11-816, and 24-11-818 — 24-11-821, the fund of the district shall be merged into, and for all purposes become a part of, the firemen's relief and pension fund of the city or town, and the board of trustees of the firemen's relief and pension fund of the city or town shall operate the fund of the district as a part of the fund of the city or town and shall assume all obligations and assets of the district fund as its own.

(2) The board of trustees of the firemen's relief and pension fund of the merging district shall cease to exist upon the completion of the transfer and merger.

(e) The board of trustees of the firemen's relief and pension fund of any fire protection district formed pursuant to §§ 14-284-101 — 14-284-121 may expend moneys from the firemen's relief and pension fund for the purpose of purchasing and paying the premiums on, group insurance covering the members of the fire department of the district against accidental injury or death occurring in the line of duty.

History. Acts 1965, No. 431, §§ 1, 2, 4, 5; 1965, No. 462, § 1; A.S.A. 1947, §§ 20-918 — 20-922.

Cross References. Rate credit on risks in rural fire protection districts, § 23-88-103.

24-11-825. Pensions for volunteer fire fighters.

(a) Upon termination of volunteer fire fighter service with all Arkansas fire departments, a fire fighter whose covered volunteer employment has been with more than one (1) Arkansas fire department shall receive a pension based upon the volunteer service if all of the following conditions are satisfied:

(1) His or her volunteer service with his or her last employing fire department was for five (5) or more consecutive years and ended with his or her retirement;

(2) Previous volunteer service with each other fire department shall have been:

(A) For five (5) or more consecutive years;

(B) Covered by a local fire pension plan established by this subchapter; and

(C) Requested in writing for service credit by the retiring fire fighter;

(3) Upon receipt of the request pursuant to subdivision (a)(2) of this section, each previous employing fire department shall certify the amount of the previous volunteer service to the local fire pension plan of the last employing fire department. The last local fire pension plan shall then cause to have performed at its expense an actuarial valuation to determine the single sum present value of the previous volunteer service being credited, based upon the benefit program the previous

local fire pension plan had in effect at the time the fire fighter terminated such previous service. The actuarial valuation shall be performed by the actuary of the Arkansas Fire and Police Pension Review Board. The dollar amount of the present value shall be promptly certified to the previous plan, which shall promptly pay that amount to the last pension plan;

(4) No more than one (1) year of service shall be credited any fire fighter for all covered employment rendered by him or her in any one (1) year, nor shall any fire fighter be given credited service for any time he or she was not an active fire fighter;

(5) The fire fighter shall cause to be transferred from each previous pension plan to the last pension plan the amount of his or her accumulated employee contributions with each previous pension plan; and

(6) The total of all service to be credited as described in this subsection must be at least twenty (20) years.

(b) The pension payable from the last pension plan shall be based upon the benefit program in effect for the last employing fire department. However, any pension fund which did not meet the actuarial standards for soundness as determined by the most recent actuarial valuation performed on the fund by the Arkansas Fire and Police Pension Review Board shall not transfer assets to another local pension fund for prior service of a former volunteer member, nor shall any volunteer member be given credited service time for which no transfer of assets is made.

History. Acts 1987, No. 111, § 1.

A.C.R.C. Notes. References to “this subchapter” in the text of §§ 24-11-801 —

24-11-824 may not apply to this section which was enacted subsequently.

24-11-826. Additional benefits for certain fire fighters hired prior to January 1, 1983.

(a) Beginning July 1, 1987, in addition to the monthly pension benefits as set forth in §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-812 — 24-11-815, 24-11-818, 24-11-820, and 24-11-821, for those fire fighters hired prior to January 1, 1983, and who continue to work beyond their twenty-fifth year, the member shall receive at age sixty (60) and thereafter a benefit on the amount equal to one and one-fourth percent (1.25%) of final salary attached to the rank which he or she may have held in the department preceding the date of retirement multiplied by the number of years of service in excess of twenty-five (25) years, up to a maximum total benefit of seventy-five percent (75%) of final salary, provided that the maximum seventy-five percent (75%) of final salary shall no longer apply to benefits payable on April 30, 1991, and thereafter to persons retiring henceforth and to those persons who retired on or after July 1, 1987. However, in no case shall the benefit payment exceed one hundred percent (100%) of final salary.

(b) This benefit shall be payable to the member only and not to surviving spouses or dependent children.

(c)(1) For the purposes of this section, “salary” means recurring pays which are received for a regularly scheduled workweek and shall not include, except as otherwise provided in this subsection, payments for unused accrued sick leave or annual leave or the cash value of any nonrecurring or unusual remunerations.

(2)(A) The term “salary” may include the payments to those fire fighters under this section for unused accrued sick leave not to exceed ninety (90) workdays recorded on the records of the city or town as of the fire fighter’s date of retirement, provided the municipality agrees by ordinance to make adequate contributions to the fund to cover the additional costs for the benefits from the increased salary and the fund is judged by an actuarial determination to be actuarially sound.

(B) The board of trustees shall determine the actuarial costs of the payments for the unused accrued sick leave to the fund.

History. Acts 1987, No. 878, § 1; 1991, No. 844, § 2; 1993, No. 546, § 4.

A.C.R.C. Notes. References to “this subchapter” in the text of §§ 24-11-801 — 24-11-824 may not apply to this section which was enacted subsequently.

Acts 1991, No. 502, § 1 provided: “(a) Beginning July 1, 1987, in addition to the monthly pension benefits as set forth in §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810, 24-11-812 — 24-11-815, and 24-11-818 — 24-11-821, for those fire fighters hired prior to January 1, 1983, and who continue to work beyond their twenty-fifth year, the member shall receive at age sixty (60) years and thereafter a benefit on the amount equal to one and one-fourth per-

cent (1.25%) of final salary attached to the rank which he may have held in the department preceding the date of retirement multiplied by the number of years of service in excess of twenty-five (25) years, up to a maximum total benefit of seventy-five percent (75%) of final salary, provided that the maximum seventy-five percent (75%) of final salary shall no longer apply to benefits payable on April 30, 1991, and thereafter to persons retiring henceforth and to those persons who retired on or after July 1, 1987. However, in no case shall the benefit payment exceed one hundred percent (100%) of final salary.”

Publisher’s Notes. Acts 1987, No. 878, § 1, is also codified as § 24-11-432.

CASE NOTES

Retroactivity.

Neither by express provision nor implication, does Act 878 of 1987 suggest that retroactivity is the intended result, and chancellor erred in applying it retroac-

tively to persons who retired before the act was passed. *Arkansas Fire & Police Pension Review Bd. v. Stephens*, 309 Ark. 537, 832 S.W.2d 239 (1992).

24-11-827. Retired member returning to active status.

(a) Notwithstanding any other provision of the law to the contrary, should an age or service retirant return March 1, 1986, or later, to employment in a position covered by the firemen’s fund from which he or she retired, no pension payments shall be paid him or her for the period of such reemployment, and he or she may make member contributions to the system as if he or she were an active member during such reemployment.

(b)(1) If reemployment terminates before the retirant has rendered sufficient reemployment to accumulate at least three (3) years of credited service had he or she been an active member during such

reemployment, the payment of his or her pension shall resume upon such termination, under the form of payment in force at the beginning of reemployment and in an amount as it would be had he or she not been reemployed.

(2) The retirant shall be paid the accumulated contributions based upon any member contributions he or she may have made during such reemployment.

(c)(1) If reemployment continues until the retirant has rendered sufficient reemployment to accumulate three (3) years of credited service had he or she been an active member during such reemployment, then effective upon completion of such reemployment, his or her retirement shall be canceled and the former retirant shall again become an active member.

(2) Upon resuming active membership, the service and contributions and pay records during reemployment shall be added to the member's records as they were at retirement.

History. Acts 1991, No. 429, § 1; 1992 (1st Ex. Sess.), No. 71, § 2; 1992 (1st Ex. Sess.), No. 76, § 1.

A.C.R.C. Notes. References to "this

subchapter" in §§ 24-11-801 — 24-11-824 may not apply to this section which was enacted subsequently.

CASE NOTES

Construction With Other Laws.

The Deferred Retirement Option Plan (DROP) statute, § 24-11-830, which was enacted after § 24-11-827, contains a general repealer for all laws in conflict with it

which renders § 24-11-827 inapplicable to DROP participants. *Jackson v. City of Blytheville Civ. Serv. Comm'n*, 345 Ark. 56, 43 S.W.3d 748 (2001).

24-11-828. [Repealed.]

Publisher's Notes. This section, concerning credit for service as police officer in cities between 7,400 and 7,700, was

repealed by Acts 1995, No. 554, § 1. The section was derived from Acts 1991, No. 821, § 1.

24-11-829. Increase in surviving spouse benefits.

(a) Notwithstanding the other provisions of this chapter, the board of trustees of any municipal firemen's pension and relief fund for which a full one (1) mill tax is levied and which received in excess of five hundred thousand dollars (\$500,000) from premium tax funds during the most recent year shall increase surviving spouse benefits payable from the firemen's pension and relief fund to the amount of the pension received by the retired fire fighter at the time of his or her death, or the amount of the pension to which the member would have been entitled on the day he or she died had he or she been retired.

(b) The board of trustees shall direct a monthly pension in the increased amount effective on or before August 1, 1993.

History. Acts 1993, No. 480, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-11-801 — 24-11-824

may not apply to this section, which was enacted subsequently.

24-11-830. Deferred retirement option plan.

(a) In lieu of terminating employment and accepting a service retirement pension pursuant to § 24-11-801 et seq., any full-paid fire fighter who is a member of a firemen’s pension and relief fund who has not fewer than twenty (20) years of credited service and who is eligible to receive a service retirement pension may elect to participate in the Arkansas Fire Fighters’ Deferred Retirement Option Plan and defer the receipt of benefits in accordance with the provisions of this section, provided the local firemen’s pension and relief fund board of trustees approves the participation in the plan.

(b) For purposes of this section, credited service shall include service credit recognized pursuant to § 24-11-801 et seq.

(c)(1) The duration of participation in the plan for active full-paid fire fighters shall not exceed five (5) years.

(2) At the conclusion of a member’s participation in the plan, the member shall terminate employment with all participating municipalities as a fire fighter and shall start receiving the member’s accrued monthly retirement benefit from the firemen’s pension and relief fund.

(d)(1) When a member begins participation in the plan, the contribution of the fire fighter and the employer contribution shall continue to be paid.

(2)(A) In a municipality having a population of over twenty thousand (20,000) persons, municipal matching contributions for employees who elect the plan shall be credited equally to the firemen’s pension and relief fund and to the plan, or at the option of the local firemen’s pension and relief fund board of trustees, credited in the manner provided in subdivision (d)(2)(B) of this section.

(B) In a municipality having a population of twenty thousand (20,000) persons or less, municipal matching contributions for employees who elect the plan shall be credited in full to the firemen’s pension and relief fund, and the contribution of the employee shall be credited to the member’s plan account.

(3) The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the plan account.

(e)(1) The member’s monthly retirement benefit shall not change, unless the plan receives a benefit increase.

(2)(A) A member who participates in this plan shall earn interest at a rate of two (2) percentage points below the rate of return of the investment portfolio of the firemen’s pension and relief fund as certified by the actuary under contract with the Arkansas Fire and Police Pension Review Board in accordance with generally accepted actuarial practices and § 24-11-207, but no less than the actuarial assumed interest rate as certified by the actuary.

(B) The interest shall be credited to the individual account balance of the member on an annual basis.

(f) A participant in the plan shall receive at the option of the participant a lump sum payment from the account equal to the payments to the account or a true annuity based upon the account of the participant or may elect any other method of payment if approved by the board of trustees.

(g) If the participant dies during the period of participation in the plan, a lump sum payment equal to the account balance of the participant shall be paid.

History. Acts 1993, No. 1004, § 1; 1997, No. 492, § 2; 1999, No. 1457, § 2.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-11-801 — 24-11-824 may not apply to this section which was enacted subsequently.

Amendments. The 1997 amendment inserted “as certified by the actuary under

contract with the Arkansas Fire and Police Pension Review Board in accordance with generally accepted actuarial practices and § 24-11-207” in (e)(2)(A).

The 1999 amendment rewrote (d)(2)(A); added (d)(2)(B); and made stylistic changes.

CASE NOTES

ANALYSIS

Construction with other laws.
Rehiring of employee.

Construction With Other Laws.

The Deferred Retirement Option Plan (DROP) statute, § 24-11-830, which was enacted after § 24-11-827, contains a general repealer for all laws in conflict with it which renders § 24-11-827 inapplicable to

DROP participants. *Jackson v. City of Blytheville Civ. Serv. Comm’n*, 345 Ark. 56, 43 S.W.3d 748 (2001).

Rehiring of Employee.

A city could not rehire a fire chief after he participated in and retired under the Deferred Retirement Option Plan. *Jackson v. City of Blytheville Civ. Serv. Comm’n*, 345 Ark. 56, 43 S.W.3d 748 (2001).

24-11-831. Insurance premium taxes.

(a)(1) When a fire department requests the Arkansas Local Police and Fire Retirement System to conduct an actuarial assessment of the fire department for the purpose of assisting the fire department in evaluating whether to join the system, the system shall notify the State Insurance Department by December 15 to place the fire department on a noncertified list for the following two (2) years.

(2) The State Insurance Department shall require insurance companies to determine the premium taxes paid in the district of the noncertified fire department in the same manner as for cities, towns, and fire protection districts under § 24-11-809.

(b)(1) A fire department that makes an irrevocable decision to join the system shall be certified to the State Insurance Department as eligible to receive insurance premium tax distributed in the following year under § 24-11-809, if:

(A) The fire department was on the noncertified list, thereby causing premium tax data to be collected during the year the fire department makes an irrevocable decision to join the system; and

(B) The fire department makes the irrevocable decision to join the system no later than December 14.

(2) A fire department that makes an irrevocable decision to join the system may delay the effective date of joining no later than July of the following year and shall still be eligible to receive premium taxes distributed to districts in that year.

History. Acts 1997, No. 1215, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-11-801 to 24-11-830 may not apply to this section which was enacted subsequently.

References to “this chapter” in subchapters 1-7 and §§ 24-11-801 to 24-11-830 may not apply to this section which was enacted subsequently.

24-11-832. Applicability of § 24-11-820.

The provisions of § 24-11-820(b) extending the survivorship benefits for children of deceased firemen through their college years shall apply retroactively to any situation involving a surviving child which began on or after January 1, 1996.

History. Acts 1997, No. 536, § 2.

A.C.R.C. Notes. References to “this subchapter” in §§ 24-11-801 to 24-11-830 may not apply to this section which was enacted subsequently.

References to “this chapter” in subchapters 1-7 and §§ 24-11-801 to 24-11-830 may not apply to this section which was enacted subsequently.

24-11-833. Fire-related service.

(a) Any member of a firemen’s pension and relief fund who has fire-related service with the municipal government shall be entitled to purchase credited service in the system equivalent to the amount of employment service he or she has with the municipal fire department in a position as fire-related employment service up to a maximum of three (3) years of credited service, provided that the member contributes to the system an amount as the Arkansas Fire and Police Pension Review Board shall determine would be actuarially equivalent to the value of the service purchased.

(b) The board shall have the final power to determine the value of the service purchased.

(c) Service credit purchased under this section may be used to determine the member’s total credited service for the amount upon retirement and shall not be used to determine his or her final average pay for service under the system.

(d) As used in this section, “fire-related service” means service with a municipality which has fire fighters covered under a firemen’s pension and relief fund in a job or in a paid position within a covered fire department or fire department where the person performs duties which are related to the delivery of fire services, including service such as a fire department radio dispatcher or other similar service.

History. Acts 1999, No. 1171, § 2.

CHAPTER 12

LOCAL OFFICERS AND EMPLOYEES —
MISCELLANEOUS PROVISIONS

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. INVESTMENT ADVISOR TO INVEST PLAN ASSETS.

Cross References. Municipalities and counties required to provide workers' compensation coverage, § 14-26-101 et seq., § 14-60-101 et seq.

RESEARCH REFERENCES

Am. Jur. 60A Am. Jur. 2d, Pensions, § 1603 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 24-12-101. Definitions.
- 24-12-102. Applicability.
- 24-12-103. Vote to effect act.
- 24-12-104. Tax levy to support fund.
- 24-12-105. Board of trustees.
- 24-12-106. List of retired employees.
- 24-12-107. Treasurer as custodian of fund.
- 24-12-108. Deposit of moneys.
- 24-12-109. Investment.
- 24-12-110. Payments.
- 24-12-111. Moneys added to fund — Refunds.
- 24-12-112. Proration upon insufficiency of fund.
- 24-12-113. Report on condition of fund.
- 24-12-114. Subjection of fund to legal process.
- 24-12-115. Benefits — Temporary total disability retirement — Voluntary retirement.
- 24-12-116. Benefits — Permanent total disability retirement.
- 24-12-117. Benefits — Death of employee.
- 24-12-118. Funeral expenses.
- 24-12-119. [Repealed.]

SECTION.

- 24-12-120. City attorneys in cities of the first class and cities of the second class.
- 24-12-121. City clerk — Clerk-treasurer.
- 24-12-122. Deputy city clerks.
- 24-12-123. Mayors of cities of the first class.
- 24-12-124. Mayors of cities of the second class.
- 24-12-125. Treasurers of cities of the first class.
- 24-12-126. Participation in Arkansas Public Employees' Retirement System by certain city or utility managers.
- 24-12-127. Recorder-treasurers and city treasurers of the second class.
- 24-12-128. County officials and employees.
- 24-12-129. Municipal officials and employees.
- 24-12-130. Limitation on benefits provided by Acts 1997, No. 1098.
- 24-12-131. Monthly benefit increase.

Publisher's Notes. Due to the enactment of subchapter 2 by Acts 1999, Nos. 50 and 332, the existing provisions of this

chapter have been designated as subchapter 1.

Effective Dates. Acts 1949, No. 147,

§ 24: approved Feb. 23, 1949. Emergency clause provided: "Whereas, the above employees are not covered by Social Security and this Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared, and this Act shall take effect and be in force from and after its passage."

Acts 1957, No. 313, § 3: approved Mar. 27, 1957. Emergency clause provided: "Whereas, this Act is necessary to reward faithful servants who have performed their duties good and well and given the best part of their lives and loyal to their respective communities and to properly protect the public peace, health and safety, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage."

Acts 1959, No. 271, § 3: approved Mar. 25, 1959. Emergency clause provided: "Whereas, this Act is necessary to reward faithful servants who have performed their duties good and well and given the best part of their lives and loyal to their respective communities and to properly protect the public peace, health and safety, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage."

Acts 1971, No. 349, § 3: Mar. 22, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is presently no law providing for retirement of Treasurers of cities of the first class; that it is essential that provision be made for retirement benefits for such City Treasurers in order to encourage competent and qualified people to seek and accept the position of Treasurer in such cities. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 356, § 6: Mar. 22, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the services of competent city clerks and clerk-treasurers are essential to the successful operation of cities of this State and that the providing of adequate retirement benefits of such clerks and clerk-treasurers is essential to rewarding them for years of faithful service to the cities, and the providing of adequate retirement benefits for such clerk or clerk-

treasurer is essential to the recruitment of competent and qualified personnel for cities of this State; and that the immediate passage of this Act is necessary to accomplish the aforesaid purposes. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 421, § 3: Mar. 20, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 147 of 1949 authorized cities of the first and second class to establish Pension and Relief Funds for Paid Non-uniformed Employees and that Section 2 of said Act prohibited employees who leave city employment from receiving a refund of the amounts deducted from their wages for payment to the said Pension and Relief Fund; and that the immediate passage of this Act is necessary to enable any such employee whose wages have been subject to a deduction for payment into the Pension and Relief Fund of said city to receive a refund thereof upon his leaving city employment. Therefore, and [an] emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 388, § 3: Mar. 18, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the retirement laws of certain second class city mayors should be revised in order to allow the cities to provide adequate retirement benefits; that this Act accomplishes the same and should be given effect immediately in order to provide equitable retirement benefits for the persons covered by this Act. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 1130, § 6: Apr. 13, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law relating to nonuniformed municipal employees pension and relief funds does not grant the

board of trustees adequate latitude in the employment of an investment counselor and in investing the funds; that this act gives the boards of trustees of some such pension and relief funds the needed additional authority and should be given effect immediately to enable the boards of trustees of such funds to assure that such funds are as productive as possible. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 2001, No. 1615, § 3: Apr. 16, 2001. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that former municipal employees often serve as mayors in municipalities in Arkansas; that the former service as a municipal employee

provided valuable background knowledge to aid the mayor in the performance of his job as a public official; that time in public employment should count towards the mayor’s retirement benefit; and that it is necessary to provide this benefit to former municipal employees as soon as possible and this act should have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

24-12-101. Definitions.

As used in this act, unless the context otherwise requires, “paid nonuniformed employees” means the mayor, city attorney, city treasurer, city clerk, or municipal judge of any city to which this act is applicable when the mayor, city attorney, city treasurer, city clerk, or municipal judge elects to be so included.

History. Acts 1949, No. 147, § 1; 1961, No. 501, § 1; 1981, No. 909, § 5; A.S.A. 1947, § 19-922.

Meaning of “this act”. Acts 1949, No. 147, codified as §§ 24-12-101 — 24-12-118.

24-12-102. Applicability.

This act shall not apply to any city having a paid nonuniformed employees’ pension and relief fund prior to February 23, 1949.

History. Acts 1949, No. 147, § 21; A.S.A. 1947, § 19-941.

Meaning of “this act”. See note to § 24-12-101.

24-12-103. Vote to effect act.

(a) The provisions of this act shall be suspended and inoperative in any city affected by the provisions of the act until made available by a vote favorable thereto of the majority of the qualified electors of the cities participating in any election on the question and held at the time of any election in the city, whether state, city, special, or federal, or at a special election called for the purpose of voting on the question.

(b) The election may be held in connection with the first general city election following the passage and approval of this act, but the failure

to submit or the failure to adopt at the city or other election shall not bar, abridge, or defeat the right of submission at any subsequent election.

(c) Upon the filing with the county board of election commissioners, not later than ten (10) days before the date of the election, of a petition signed by twenty (20) or more qualified electors of the city affected and praying that the question of paid nonuniformed employees' pensions and the levying of a tax therefor, not exceeding one and one-half (1½) mills, be submitted, it shall be the duty of the county board of election commissioners to place the question upon the ballot.

(d) In the event the question shall not, for any reason, be voted upon at the next general city election after the passage and approval of this act, the question may be submitted at any other general or special election held in the city as provided in this section.

(e) The question on the ballot shall be as follows:
"FOR Paid Nonuniformed Employees pensions and the levying of a mill tax of (amount here designated on ballot not exceeding one and one-half (1½) mills) therefor ☐
AGAINST Paid Nonuniformed Employees pensions and the levying of a mill tax of (amount here designated on ballot not exceeding one and one-half (1½) mills) therefor ☐."

History. Acts 1949, No. 147, § 22; act", Acts 1949, No. 147, was signed by the
1961, No. 501, § 2; A.S.A. 1947, § 19-942. Governor on February 23, 1949.

Publisher's Notes. With reference to **Meaning of "this act".** See note to
the phrase "passage and approval of this § 24-12-101.

24-12-104. Tax levy to support fund.

(a) Annually, a tax not to exceed one and one-half (1½) mills on the dollar of all taxable property in cities of the first and second class which have paid nonuniformed employees may be levied by a vote of the people as a fund for pensioned, superannuated, and retired paid nonuniformed employees and for the surviving spouses and dependent children of deceased paid nonuniformed employees and dependent parents of deceased employees and to relieve the employees in case of permanent or temporary disability.

(b) At any time that any city in this state shall meet the requirements of this section, then, and in that case, the provisions of this act shall apply to the city.

(c) The fund shall be known as the pension and relief fund for paid nonuniformed employees and shall be collected by the sheriffs and collectors as other taxes are collected and by them turned over to the board of trustees of the fund, which board is provided for and created in this act.

History. Acts 1949, No. 147, § 1; 1961, **Meaning of "this act".** See note to
No. 501, § 1; 1981, No. 909, § 5; A.S.A. § 24-12-101.
1947, § 19-922.

24-12-105. Board of trustees.

(a)(1) The board of trustees of the pension and relief fund for paid nonuniformed employees shall consist of five (5) members and shall be composed of the mayor, the head of the street department, the city treasurer, who shall be the treasurer of the fund and the general manager of the waterworks, or the superintendent, in the event there is no general manager, who shall be secretary of the board and who shall serve for a period of two (2) years or until his or her successor shall be elected and qualified.

(2) The mayor shall be chair of the board, and the first four (4) members shall elect one (1) other member, who shall be a reputable physician and who shall represent the board of trustees in the examination of any member of the departments upon the claim of disability.

(3) The physician member of the board so selected shall serve for a period of two (2) years or until his or her successor is elected and qualified.

(b) The board shall have the absolute control and management of the funds provided for in this act and of all moneys donated, paid, or assessed for the relief or pension of disabled, superannuated, and retired paid nonuniformed employees, their surviving spouses, and minor children under the age of sixteen (16), or surviving parent solely dependent upon the employee for support.

(c)(1) The board shall make all necessary rules and regulations for its government and the discharge of its duties and shall hear and decide all applications for relief or pensions under this act.

(2) The board's decisions upon all applications, insofar as matters involving the exercise of discretionary powers are involved, shall be final and conclusive and not subject to review or reversal except by the board.

(d) The board shall cause to be kept a record of all its meetings and proceedings.

History. Acts 1949, No. 147, §§ 3, 4; **Meaning of "this act".** See note to
A.S.A. 1947, §§ 19-924, 19-925. § 24-12-101.

24-12-106. List of retired employees.

(a) There shall be kept in the office of the board of trustees, by the secretary, a book known as the list of retired paid nonuniformed employees.

(b) The book shall give the full and complete history and record of action of the board of trustees in retiring any and all persons under this act.

(c) The record shall give the name, date of joining the service or department, date of retirement and reason thereof, and the date and finding of the physician of each examination made of disabled employees retired under the provisions of this act.

History. Acts 1949, No. 147, § 12; **Meaning of "this act".** See note to A.S.A. 1947, § 19-933. § 24-12-101.

24-12-107. Treasurer as custodian of fund.

(a) The treasurer shall be custodian of the pension fund and shall keep his or her books and accounts concerning the fund in such manner as may be prescribed by the board.

(b) The books and accounts shall be subject to the inspection of any member of the board or of any of the paid nonuniformed employees.

(c)(1) Within ten (10) days after assuming his or her duties under this act, the treasurer shall execute a bond to the board of trustees with good and sufficient securities and in such penal sum as the board shall direct, conditioned for the faithful performance of the duties of his or her office. He or she shall surrender and deliver to his or her successor all unexpended moneys and all property which may have come into his or her hands as treasurer of the fund.

(2) The bond shall be filed in the office of the board of trustees and in case of a breach of the bond, suit may be brought on the bond in the name of the board or of any person or persons injured by the breach.

History. Acts 1949, No. 147, § 17; A.S.A. 1947, § 19-938.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursu-

ant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

Meaning of "this act". See note to § 24-12-101.

24-12-108. Deposit of moneys.

The board shall deposit all moneys in the bank selected as the fiscal agent of the city in which it is located, but only if the moneys draw the same rate of interest as the city receives on its deposits. Otherwise, the board shall make its own selection of the bank.

History. Acts 1949, No. 147, § 14; A.S.A. 1947, § 19-935.

24-12-109. Investment.

(a) The board of trustees shall have the power to draw sums from its treasury to invest in the name of the board of trustees of the paid nonuniformed employees' pension and relief fund in interest-bearing bonds of the United States, of the State of Arkansas, or of the city in which the board is located or in a local government joint investment trust pursuant to § 19-8-301 et seq.

(b) All securities shall be deposited with the treasurer of the board of trustees of the pension and relief fund and shall be subject to the orders of the board.

(c)(1) In those nonuniformed employees' pension and relief funds in which assets exceed one hundred thousand dollars (\$100,000), the

board of trustees may employ an investment advisor as defined in § 24-10-402(a)(2)(A)(ii) to invest the assets, subject to the terms, conditions, limitations, and restrictions imposed by law upon the Arkansas Local Police and Fire Retirement System, as provided by §§ 24-10-401 — 24-10-411.

(2) The investments shall not be limited to interest-bearing bonds.

History. Acts 1949, No. 147, § 5;
A.S.A. 1947, § 19-926; Acts 1993, No.
1130, § 1; 1995, No. 615, § 4.

24-12-110. Payments.

(a) All moneys paid from the pension and relief fund shall be paid by the treasurer only upon warrants signed by the chair and countersigned by the secretary thereof.

(b) No warrant shall be drawn except by the order of the board, and interest accruing from the fund, while on deposit or otherwise, shall constitute a part of the fund.

History. Acts 1949, No. 147, § 6;
A.S.A. 1947, § 19-927.

24-12-111. Moneys added to fund — Refunds.

(a) There shall be added to the fund the following moneys:

(1) All moneys given or donated to the fund; and

(2) Not less than six percent (6%) of the monthly salary of each employee, to be deducted each month by the city or its proper agency and immediately paid to the board of trustees of the pension and relief fund for paid nonuniformed employees.

(b) Employers shall contribute to the fund not less than six percent (6%) of the employee's salary.

(c) Both the employees and employers shall contribute to the fund equal amounts of covered payroll.

(d)(1) Upon leaving employment with the city, any employee shall be entitled to apply for and receive a refund of the aggregate amount withheld from his or her monthly salary during his or her period of employment with the city and paid into the pension and relief fund for paid nonuniformed employees of the city.

(2) Upon receiving a refund of the amounts deducted from his or her monthly salary from the pension and relief fund for paid nonuniformed employees of the city, the employee shall forfeit his or her credited service as a member of the pension and relief fund and shall not be eligible thereafter to receive any benefits under the provisions of this act for his or her service.

History. Acts 1949, No. 147, § 2; 1979, **Meaning of "this act".** See note to
No. 421, § 1; 1983, No. 510, § 1; A.S.A. § 24-12-101.
1947, § 19-923.

24-12-112. Proration upon insufficiency of fund.

If at any time there should not be sufficient money in the fund to pay each person a full amount to which he or she may be entitled, the beneficiaries shall be paid by prorating the fund available among them in accordance with the respective benefits being received by them under this act.

History. Acts 1949, No. 147, § 11; **Meaning of "this act".** See note to A.S.A. 1947, § 19-932. § 24-12-101.

24-12-113. Report on condition of fund.

The board of trustees shall report to the council, city commissioner, or city clerk of the city on the condition of the pension fund on the first regular meeting in January of each year.

History. Acts 1949, No. 147, § 15; A.S.A. 1947, § 19-936.

24-12-114. Subjection of fund to legal process.

(a) No portion of the pension and relief fund shall at any time be subject to seizure or to be levied on under any process whatsoever for the payment of any claim or debts held against any disabled or retired employee or the surviving spouse, dependent parent, or minor children under sixteen (16) years of age of a deceased or retired employee.

(b) The fund shall be securely held and distributed for the purpose of pensioning the persons mentioned in this act and for no other person or purpose whatsoever.

History. Acts 1949, No. 147, § 16; **Meaning of "this act".** See note to A.S.A. 1947, § 19-937. § 24-12-101.

24-12-115. Benefits — Temporary total disability retirement — Voluntary retirement.

(a) The board of trustees, by a majority vote of the members and with the approval of the physician on the board, shall have the power to retire from service any employee who has become temporarily totally disabled while in the performance of his or her duties when it has been certified to the board of trustees in writing by the physician on the board that the employee to be retired because of temporary total disability will be incapacitated, either mentally or physically, from the performance of his or her duties as an employee for a period of three (3) months or more.

(b) It shall be mandatory on the board to retire an employee who has performed faithful service as an employee for a period of twenty (20) years at the employee's option or election, to be exercised by making written application therefor, or to retire an employee who has attained the age of sixty (60) and has served as an employee for at least ten (10)

years at the employee's option or election, to be exercised by making written application therefor.

(c)(1) In cases arising under subsections (a) and (b) of this section, the board shall place an employee so retired upon the pension roll at one-half ($\frac{1}{2}$) pay.

(2) The minimum monthly pension paid to a retired employee shall not be less than fifty dollars (\$50.00) per month regardless of whether the employee's monthly salary shall equal this minimum sum or not.

(d)(1) No employee shall be retired because of disability from natural causes unless he or she has served as an employee for a period of five (5) years.

(2) No employee shall be retired because of a disability of any nature except upon examination and approval of the physician on the board of trustees.

(e)(1) If any employee is retired because of any temporary total disability, it shall be his or her duty to have an examination made of himself or herself by the physician on the board of trustees at least once every thirty (30) days, and if he or she shall have recovered from the disability, it shall be the duty of the board of trustees to stop payment of the pension and to place the employee back in service.

(2) The time of his or her retirement shall be considered as continuous service in his or her position.

(3) An employee receiving the examination shall pay to the physician a fee of five dollars (\$5.00) for the examination so made.

History. Acts 1949, No. 147, §§ 9, 10;
A.S.A. 1947, §§ 19-930, 19-931.

24-12-116. Benefits — Permanent total disability retirement.

(a) If any paid nonuniformed employee, while in the performance of his or her duty, shall become physically or mentally totally and permanently disabled by reason of his or her service from performing his or her departmental duties and this fact shall be certified to by the physician on the board of trustees, it shall be mandatory on the board of trustees to retire the disabled employee from service upon one-half ($\frac{1}{2}$) pay, which shall be one-half ($\frac{1}{2}$) of the monthly compensation received by the employee at the time of his or her retirement.

(b) No such employee shall be retired on a pension of less than six hundred dollars (\$600) a year regardless of whether this minimum amount, when broken down into equal monthly installments, should equal one-half ($\frac{1}{2}$) of the employee's monthly compensation.

(c)(1) If any employee is retired because of any permanent total disability, it shall be the duty of the employee to have an examination made of himself or herself by the physician on the board of trustees at least one (1) time every six (6) months.

(2) An employee receiving the examination shall pay to the physician a fee of five dollars (\$5.00) for the examination so made.

(d) If an employee recovers from his or her disability, it shall be the duty of the board of trustees to stop payment of his or her pension and place the employee back in service. The time of his or her retirement shall be considered as continuous service in his or her position.

History. Acts 1949, No. 147, §§ 7, 10;
A.S.A. 1947, §§ 19-928, 19-931.

24-12-117. Benefits — Death of employee.

(a)(1) If while in the performance of his or her duty any employee shall be killed or die as a result of injuries received in performing that duty, or shall die of a disease contracted by reason of that occupation, or shall die of natural causes while in service, and shall leave a spouse or children under the age of sixteen (16) surviving, the board of trustees shall direct a payment of fifty dollars (\$50.00) monthly from the pension and relief fund to the spouse, while unmarried, or to the guardian of the minor children until the youngest of the children shall attain the age of sixteen (16).

(2) Should the employee leave no spouse or minor children under sixteen (16) years of age, but a parent solely dependent upon the employee's support, the board shall pay the sum of fifty dollars (\$50.00) monthly as long as the dependent parent remains unmarried.

(3) If any employee already retired and pensioned under this act shall die while so retired and pensioned, leaving a spouse, minor children under the age of sixteen (16), or dependent parent surviving, then each of them shall also be entitled to a pension under this act.

(b)(1) When entitled to a pension as provided by this act, a spouse, children, or a dependent parent shall make application to the board of trustees, through the secretary of the board, on a form to be provided by the board.

(2) Accompanying the application shall be proof of the marriage of the deceased spouse to the claimant.

(3) Proof of birth of children shall be established by birth certificate, baptismal certificate, or other proof recognized by the Division of Vital Records of the Department of Health.

(4) All applications and proof shall be retained in the custody of the board, and due notice of that action shall be registered by the secretary in his or her office.

(c) Every paid nonuniformed employee shall file with the secretary the names of those persons to whom death benefits are to be paid and shall set forth the relationship of the beneficiaries to the employee.

History. Acts 1949, No. 147, §§ 8, 13, **Meaning of "this act".** See note to
19; 1981, No. 909, §§ 6, 7; A.S.A. 1947, § 24-12-101.
§§ 19-929, 19-934, 19-940.

24-12-118. Funeral expenses.

(a) Whenever an active or retired employee shall die or be killed, the board of trustees shall appropriate from the fund the sum of one hundred dollars (\$100) to pay the funeral expenses of the decedent.

(b) However, this action shall not operate to reduce payments then being paid pursuant to § 24-12-112.

History. Acts 1949, No. 147, § 18;
A.S.A. 1947, § 19-939.

24-12-119. [Repealed.]

Publisher's Notes. This section, concerning retirement plans in cities of first class having commission form of government, was repealed by Acts 1995, No. 555,

§ 1. The section was derived from Acts 1947, No. 12, §§ 1-3; A.S.A. 1947, §§ 19-630 — 19-632.

24-12-120. City attorneys in cities of the first class and cities of the second class.

(a) Upon approval by the governing body, a city of the first class or city of the second class may provide for retirement benefits established by this section for a city attorney elected or appointed to office.

(b) In all cities of the first class and cities of the second class in this state, any person who shall serve as city attorney of the city for a period of not less than ten (10) years, upon reaching age sixty (60), or any person who shall serve as a city attorney for a period of not less than twenty (20) years, without regard to age, shall be entitled to retire at an annual retirement benefit during the remainder of his or her natural life, payable at the rate of one-half ($\frac{1}{2}$) of the salary payable to the city attorney at the time of his or her retirement.

(c) All payments of retirement benefits under this section shall be payable monthly and shall be paid from the general funds of the city.

History. Acts 1983, No. 370, §§ 1, 2; A.S.A. 1947, §§ 19-945, 19-946; Acts 1999, No. 1066, § 5.

substituted "city attorneys" for "municipal attorneys" in the section heading and in (a); rewrote (b); and made minor punctuation and stylistic changes.

Amendments. The 1999 amendment

24-12-121. City clerk — Clerk-treasurer.

(a) Any city clerk or clerk-treasurer in a city of the first class who shall have served as city clerk, clerk-treasurer, and city treasurer for a period of not less than ten (10) years, upon reaching the age of sixty (60), or who shall serve twenty (20) years without regard to age, shall be entitled to retire from office for the remainder of his or her life at the retirement pay provided for in this section.

(b)(1) Any city clerk, city treasurer, or any person serving as city clerk or clerk-treasurer who shall retire or be succeeded by another city clerk or clerk-treasurer within the provisions of this section shall be

paid monthly a sum equal to one-half ($\frac{1}{2}$) of the monthly salary received by him or her during the last preceding year of his or her service.

(2) The retirement pay shall be paid by the city from its general fund account.

(c)(1) Any city clerk or clerk-treasurer in a city of the first class who has served in another capacity with the same city, and that capacity of service also provides for a retirement plan, may apply all years served in that previous capacity toward the accrual of the vesting period provided for in subsection (a) of this section, if approved by the city council.

(2) Benefits shall be paid proportionally from the various funds applicable to the respective capacities of service. This shall be based on the length of service in each capacity for the city.

History. Acts 1957, No. 313, §§ 1, 2; 1031, 19-1032; Acts 1987, No. 117, § 1; 1971, No. 356, §§ 1, 2; A.S.A. 1947, §§ 19- 1993, No. 1103, § 1.

24-12-122. Deputy city clerks.

(a) Any deputy city clerk in a city of the first class who shall have served twenty (20) years as deputy city clerk, who shall have attained the age of sixty-five (65), and who shall retire from office or be succeeded by another deputy city clerk may receive for the remainder of his or her life the retirement pay provided for in this section.

(b)(1) Any deputy city clerk who shall retire or be succeeded by another deputy city clerk within the provisions of this section may be paid monthly a sum equal to one-half ($\frac{1}{2}$) of the monthly salary received by him or her during the last preceding year of his or her service.

(2) The retirement pay shall be paid by the city from its general fund account when appropriated for that purpose by the governing body of the city.

History. Acts 1959, No. 271, §§ 1, 2; 1973, No. 118, § 1; A.S.A. 1947, §§ 19-1033, 19-1034.

24-12-123. Mayors of cities of the first class.

(a)(1)(A) In all cities of the first class in this state, any person who shall serve as mayor of the city for a period of not less than ten (10) years, upon reaching age sixty (60), or any person who shall serve as mayor of the city for a period of not less than twenty (20) years, without regard to age, shall be entitled to retire at an annual retirement benefit during the remainder of the person's natural life, payable at the rate of one-half ($\frac{1}{2}$) of the salary payable to the mayor at the time of retirement.

(B) The governing body of the city may provide by ordinance that any person who has served as mayor for a period of not less than ten (10) years may retire upon reaching age fifty-five (55) with the benefits provided under this section.

(2) The retirement payments shall be paid monthly and shall be paid from the city general fund.

(3) However, a mayor who has served as an elected official or employee of that city prior to or after the person's service as mayor shall count his or her service as an elected official or employee of that city towards the mayor's retirement as follows:

(A)(i) At the rate of one (1) year of a mayor's retirement for each two (2) years served as an elected official or an employee of that city up to a maximum of an additional two (2) years' credit towards a mayor's retirement benefit;

(ii) If authorized by a city ordinance, at the rate of one (1) year of a mayor's retirement benefit for each two (2) years served as an elected official or an employee of that city up to a maximum of three (3) additional years' credit towards a mayor's retirement benefit if the person has not fewer than twenty (20) years of mayor's credit and is at least fifty-two (52) years of age; or

(iii) If authorized by a city ordinance, at the rate of one (1) year of a mayor's retirement benefit for each two (2) years served as an elected official or an employee of that city up to a maximum of four (4) additional years' credit towards a mayor's retirement benefit if the person has not fewer than twenty (20) years of mayor's credit and is at least fifty-four (54) years of age; and

(B) Service as an elected official or as an employee of the city that is also covered under another retirement plan offered by the city or that is covered by another benefit provided for by law shall not be applied towards the mayor's retirement benefits provided for under this section.

(4) The minimum retirement benefits shall be two hundred fifty dollars (\$250) per month for both salaried and nonsalaried mayors.

(b)(1) On the death of any mayor retired under the provisions of subsection (a) of this section or any other acts of the General Assembly, or any mayor who dies in office after becoming eligible to retire under subsection (a) of this section or any other acts of the General Assembly, the spouse of the mayor married to the mayor for ten (10) years or longer may, at the option of the governing body of the city, receive one-half ($\frac{1}{2}$) of the retirement benefit the retired mayor was receiving or one-half ($\frac{1}{2}$) of the retirement benefit the mayor who died in office was entitled to receive.

(2) However, upon remarriage of the spouse, the benefits shall cease.

(3) The provisions of this subsection are retroactive to November 1, 1983, at the sole discretion of the governing body of the city.

(c) Any mayor retired prior to July 20, 1987, and receiving benefits under prior acts of the General Assembly shall be entitled to continue receiving benefits under the prior acts.

History. Acts 1987, No. 414, §§ 1-3; 1997, No. 212, § 1; 2001, No. 1615, § 1; 2001, No. 1700, § 1.

Publisher's Notes. Former § 24-12-123, concerning retirement of mayors of first-class cities, was repealed by Acts

1987, No. 414, § 4. The former section was derived from Acts 1985, No. 305, §§ 1-3.

Amendments. The 1997 amendment substituted “elected official” for “alderman” and “employee of that city” for “city employee” throughout (a)(3).

The 2001 amendment by No. 1615, deleted “years” following “sixty (60)” in (a)(1); substituted “towards the mayor’s retirement as follows” for “at the rate of one (1) year for mayor’s retirement for

each two (2) years served as an elected official or an employee of that city with a maximum of an additional two (2) years’ credit towards mayor’s retirement”; added (a)(3)(A)-(B); and made gender neutral changes and minor stylistic changes throughout.

The 2001 amendment by No. 1700, in present (a)(1)(A), deleted “years” following “sixty (60),” and made gender neutral changes; and added (a)(1)(B).

CASE NOTES

Construction With Other Laws.

A mayor’s right to retirement benefits did not vest until she completed 10 years of service to the city, which occurred after the enactment of § 14-42-117, and, therefore, she forfeited her right to receive the

retirement benefit provided by this section when she elected to receive a lump-sum payment from a plan offered by the city. *Robinson v. Taylor*, 342 Ark. 459, 29 S.W.3d 691 (2000).

24-12-124. Mayors of cities of the second class.

(a)(1) Persons who have served as mayors of cities of the second class for at least twenty (20) years may retire at any age, and persons who have served as mayors of cities of the second class for at least sixteen (16) years may retire upon reaching age sixty-five (65).

(2) The retirement benefits shall be prescribed by the city council.

(b) Any mayor who retired prior to March 18, 1985, and received benefits under prior acts of the General Assembly shall be entitled to continue receiving benefits under the prior acts.

History. Acts 1985, No. 388, §§ 1, 2; A.S.A. 1947, §§ 19-1115, 19-1116.

24-12-125. Treasurers of cities of the first class.

(a) Upon approval of the governing body of any city of the first class, any person who has served as city treasurer of the city for a period of fifteen (15) years and who shall retire from office or be succeeded by another city treasurer shall, upon reaching sixty (60) years of age, receive for the remainder of his or her life the retirement pay provided for in this section.

(b)(1) Any city treasurer who shall retire or be succeeded by another city treasurer within the provisions of this section shall be paid monthly a sum equal to one-half ($\frac{1}{2}$) of the monthly salary received by him or her during the last preceding year of his or her service.

(2) Upon approval by the governing body of the city, the retirement pay shall be paid by the city from its general fund account.

History. Acts 1971, No. 349, §§ 1, 2; 1973, No. 119, § 1; A.S.A. 1947, §§ 19-1036, 19-1037.

24-12-126. Participation in Arkansas Public Employees' Retirement System by certain city or utility managers.

(a) The city or utility manager of any municipality in this state having a city manager form of government and a population of fewer than fifty thousand (50,000) inhabitants, according to the most recent federal decennial census, at his or her option may be included in or excluded from membership in the Municipal Division of the Arkansas Public Employees' Retirement System.

(b) If any such city or utility manager shall elect not to be covered by the Municipal Division, a statement in writing to that effect shall be filed with the city manager board of the city, and a copy thereof shall be furnished to the Director of the Arkansas Public Employees' Retirement System.

History. Acts 1985, No. 596, § 1; A.S.A. 1947, § 19-739.

A.C.R.C. Notes. The Municipal Division of the Arkansas Public Employees' Retirement System, referred to in this section, no longer exists as a separate

division of the system. For present organizational structure of the system, see § 24-4-201.

Cross References. Arkansas Public Employees' Retirement System, § 24-4-101 et seq.

24-12-127. Recorder-treasurers and city treasurers of the second class.

(a) Any recorder-treasurers and city treasurers in a city of the second class who shall have served as recorder-treasurer and city treasurer for a period of not less than ten (10) years, upon reaching the age of sixty (60), or who shall serve twenty (20) years without regard to age, may, upon a vote of approval by the governing body of the city, retire from office for the remainder of his or her life at the retirement pay provided for in this section.

(b)(1) Any recorder-treasurer or city treasurer or any person serving as recorder-treasurer or city treasurer who shall retire or be succeeded by another recorder-treasurer or city treasurer within the provisions of this section shall be paid monthly a sum equal to one-half (½) of the monthly salary received by him or her during the last preceding year of his or her service.

(2) The retirement pay shall be paid by the city from its general fund account.

History. Acts 1991, No. 987, § 1.

24-12-128. County officials and employees.

When any county official or county employee retires and either is age fifty-five (55) or older and vested in the County Division of the Arkansas Public Employees' Retirement System or has thirty (30) or more years

of actual service or thirty-five (35) years of credited service in the County Division regardless of age, the official or employee may continue to participate in the county health care plan as long as the official or employee pays both employer and employee contributions to the health care plan.

History. Acts 1995, No. 745, § 1; 1997, No. 822, § 1.

A.C.R.C. Notes. The County Division of the Arkansas Public Employees' Retirement System, referred to in this section, no longer exists as a separate division of the system. For present organizational

structure of the system, see § 24-4-201.

Amendments. The 1997 amendment rewrote this section.

Cross References. Arkansas Public Employees' Retirement System, § 24-4-101 et seq.

24-12-129. Municipal officials and employees.

When any municipal official or municipal employee age fifty-five (55) or over who has completed twenty (20) years of service to the municipality and who is vested in the retirement system retires, the official or employee may continue to participate in the municipality's health care plan, receiving the same medical benefits and paying the same premium as active employees as long as the retired official or employee pays both employer and employee contributions to the health care plan.

History. Acts 1995, No. 664, § 1; 1997, No. 1098, § 1.

Amendments. The 1997 amendment rewrote this section.

24-12-130. Limitation on benefits provided by Acts 1997, No. 1098.

Nothing contained in § 24-12-129 should be interpreted to prevent a municipality from providing benefits contained in § 24-12-129 to retirees who are less than age fifty-five (55) or who have completed fewer than twenty (20) years of municipal service. Further, any person who qualified and participated in a municipal health care plan under § 24-12-129 shall continue to be eligible to participate in the health care plan after August 1, 1997.

History. Acts 1997, No. 1098, § 2; 2001, No. 241, § 1.

deleted "greater than" following "providing benefits," and inserted "to retirees ... of municipal service."

Amendments. The 2001 amendment

24-12-131. Monthly benefit increase.

Any former mayor of a municipality having a population of not fewer than twenty-one thousand eight hundred (21,800) nor more than twenty-two thousand eight hundred (22,800) according to the 1990 Federal Decennial Census who is receiving a monthly retirement annuity of two hundred fifty dollars (\$250) from a municipality shall receive an increase to three hundred dollars (\$300) per month effective July 1, 1999. Thereafter, the municipality shall redetermine the

amount of the monthly benefit each January 1. The redetermined amount shall be payable for the following twelve (12) calendar months. The redetermined amount shall be the amount of the benefit payable as of the immediately preceding December 1 increased by three percent (3%).

History. Acts 1999, No. 1066, § 6.

SUBCHAPTER 2 — INVESTMENT ADVISOR TO INVEST PLAN ASSETS

SECTION.

24-12-201. Definitions — Power to invest.
24-12-202. Authority to employ investment advisor — Investment policy.

SECTION.

24-12-203. Immunity — Jurisdiction.
24-12-204. Construction of subchapter.

Effective Dates. Acts 1999, No. 50, § 8: Feb. 11, 1999. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law pertaining to non-uniform employees pension and relief plans passed in 1949 is limited to cities which did not have pension and relief plans in place in 1949, and who subsequently passed millages to fund such plans. Cities since that time have instituted defined benefit plans and, more recently, defined contribution plans, in which employer and employee contributions, not millages, fund the plans. This Act authorizes cities with non-uniform employee pension plan funds in excess of \$100,000, regardless of the method of funding the plans, to update their investment policies and rules consistent with the investment policies and rules enacted in Act 1194 of 1997 for state retirement systems. Such clarification should go into effect immediately in order for cities to take advantage, should they so choose, of the current favorable investment climate and strong economy to increase plan assets, to compete with private industry retirement benefits for qualified employees, and to increase the likelihood of employees retiring with adequate funds for their retirement years. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become

effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 332, § 8: became law without Governor's signature. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the present law pertaining to non-uniform employee pension and relief plans passed in 1949 is limited to cities which did not have pension and relief plans in place in 1949, and who subsequently passed millages to fund such plans. Cities since that time have instituted defined benefit plans and more recently, defined contribution plans, in which employer and employee contributions, not millages, fund the plans. This act authorizes cities with non-uniform employee pension plan funds in excess of one hundred thousand dollars (\$100,000), regardless of the method of funding the plans, to update their investment policies and rules consistent with the investment policies and rules enacted in Act 1194 of 1997 for state retirement systems. Such clarification should go into effect immediately in order for cities to take advantage, should they so choose, of the current favorable investment climate and strong economy to increase plan assets, to compete with private industry retirement benefits for qualified employees, and to increase the likelihood of employees retiring with adequate funds for their retire-

ment years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor,

it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

24-12-201. Definitions — Power to invest.

(a) For purposes of this subchapter, "city" means cities of the first class, cities of the second class, and incorporated towns.

(b) Subject to subsection (c) of this section, a board of trustees of a city nonuniformed employees' pension plan with assets in excess of one hundred thousand dollars (\$100,000) shall have full power to:

(1) Invest and reinvest the moneys of the plan; and

(2) Hold, purchase, sell, assign, transfer, or dispose of any of the investments so made and the proceeds of the investments and moneys.

(c) The investments and reinvestments shall only be made in accordance with the prudent investor rule set forth in §§ 24-3-417 — 24-3-426.

History. Acts 1999, No. 50, § 1; 1999, No. 332, § 1.

24-12-202. Authority to employ investment advisor — Investment policy.

(a) A board of trustees of a city nonuniformed employees' pension plan with assets in excess of one hundred thousand dollars (\$100,000) may employ an investment advisor as its agent to make investment recommendations and to invest the assets pursuant to a written board investment policy, provided that the governing body of the city declares such services professional services under § 19-11-806, and subject to the terms, conditions, limitations, and restrictions imposed by law upon investments of state retirement systems as set forth in §§ 24-3-417 — 24-3-426.

(b) The investment policy shall not limit the investments to interest-bearing bonds.

History. Acts 1999, No. 50, § 2; 1999, No. 332, § 2.

24-12-203. Immunity — Jurisdiction.

(a) Trustees who comply with the requirements of § 24-3-425(a) are not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(b) By accepting the delegation of a trust function from the trustees of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

History. Acts 1999, No. 50, § 3; 1999, No. 332, § 3.

24-12-204. Construction of subchapter.

This act is cumulative to §§ 24-12-101 — 24-12-118 and shall not repeal those sections.

History. Acts 1999, No. 50, § 4; 1999, 50 and 332, codified as §§ 24-12-201 — No. 332, § 4. 24-12-204.

Meaning of “this act”. Acts 1999, Nos.

TITLE 25

STATE GOVERNMENT

CHAPTER.

1. GENERAL PROVISIONS.
2. ADMINISTRATIVE DEPARTMENTS GENERALLY.
3. DEPARTMENT OF ARKANSAS HERITAGE.
4. DEPARTMENT OF INFORMATION SYSTEMS.
5. DEPARTMENT OF CORRECTION.
6. DEPARTMENT OF EDUCATION.
7. DEPARTMENT OF HIGHER EDUCATION.
8. DEPARTMENT OF FINANCE AND ADMINISTRATION.
9. DEPARTMENT OF HEALTH.
10. DEPARTMENT OF HUMAN SERVICES.
11. DEPARTMENT OF ECONOMIC DEVELOPMENT.
12. DEPARTMENT OF LABOR.
13. DEPARTMENT OF PARKS AND TOURISM.
14. ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY.
15. ADMINISTRATIVE PROCEDURES.
16. STATE OFFICERS.
17. MANAGEMENT OF STATE INSTITUTIONS.
18. PUBLIC RECORDS.
19. FREEDOM OF INFORMATION ACT.
20. INTERLOCAL COOPERATION ACT.
21. UNIFORM LAW TO OPPOSE FEDERAL ENCROACHMENT ON STATE RIGHTS.
22. GOVERNMENTAL WASTE ELIMINATION. [REPEALED.]
23. QUALITY MANAGEMENT BOARD. [REPEALED.]
24. MARTIN LUTHER KING, JR. COMMISSION.
25. COMMISSION FOR ARKANSAS' FUTURE. [REPEALED.]
26. INFORMATION TECHNOLOGY. [REPEALED.]
27. ARKANSAS INFORMATION NETWORK.
28. ASSESSMENT COORDINATION DEPARTMENT.
29. ARKANSAS DEAF AND HEARING IMPAIRED TELECOMMUNICATIONS SERVICES CORPORATION.
30. DEPARTMENT OF WORKFORCE EDUCATION.
31. ELECTRONIC RECORDS AND SIGNATURES.
32. UNIFORM ELECTRONIC TRANSACTIONS ACT.
33. STATE EXECUTIVE CHIEF INFORMATION OFFICER AND CIO COUNCIL.
34. ARKANSAS COMPUTER AND ELECTRONIC SOLID WASTE MANAGEMENT.

A.C.R.C. Notes. As to Commission for Arkansas' Future, see Acts 1989, No. 810, as amended by Acts 1993, No. 488.

Publisher's Notes. Acts 1999, No. 1140, §§ 1-4, authorizes the Arkansas Code Revision Commission to make certain name changes affecting the Department of Education, the State Board of Education, the Department of Workforce Education, the State Board of Workforce Education and Career Opportunities, and

the Arkansas Higher Education Coordinating Board, and for other purposes.

Effective Dates. Acts 1999, No. 1140, § 9: Apr. 6, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the name changes contemplated by this act should be made and published at the earliest possible date in order to avoid confusion in the law among the members of the bar and the citizens of Arkansas.

Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall be-

come effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. PAPER REDUCTION.
3. MEMBERS OF EXECUTIVE BRANCH BOARDS AND COMMISSIONS.

Cross References. Immunity from tort liability, § 16-120-101 et seq.

Effective Dates. Acts 1999, No. 1222, § 21: Apr. 8, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that it is essential to the effective and efficient administration of the Child Care Licensing program that the responsibility for reviewing appeals be placed in the Child Care Appeal Review Panel under the Department of Human Services, as soon as possible and that this act is designed to accomplish this purpose and

should be given effect immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval of the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 25-1-101. Emergency relocation of seat of government.
- 25-1-102. State agency smoking policies.
- 25-1-103. Records related to third-party liability for services provided by state.
- 25-1-104. Access of Department of Finance and Administration to agency records.
- 25-1-105. [Repealed.]

SECTION.

- 25-1-106. Evaluation of necessity of various commissions and boards.
- 25-1-107. Guidelines for advisory bodies.
- 25-1-108. Report.
- 25-1-109. Televised public service announcements.
- 25-1-110. Cost-effectiveness of state-owned vehicles.
- 25-1-111. Designation.

A.C.R.C. Notes. Due to the enactment of subchapters 2 and 3 by Acts 1999, Nos. 1276 and 1414, the existing provisions of this chapter have been designated as subchapter 1.

Acts 2001, No. 746, §§ 1-4, provided: "SECTION 1. Definitions. As used in this act: (1) "AWIN" means a multi-agency, integrated, statewide shared-use wireless communications system including, but not

limited to base stations, mobile devices, portables, antennas, towers, real estate and other such devices, systems and supporting infrastructure as may be necessary for the proper functioning of such a system which is to be available for the use of all municipal, county and state entities; (2) "Chair" means the chair of the Work Group; and (3) "Work Group" means the AWIN Work Group.

"SECTION 2. Work Group. (a) There is created the AWIN Work Group to guide the development and implementation of AWIN.

"(b) The membership of the Work Group shall consist of: (1) The Director of the Department of Information Systems or the director's designee; (2) The Director of the Arkansas Highway and Transportation Department of the director's designee; (3) The Director of the Arkansas State Game and Fish Commission or the director's designee; (4) The State Forester of the State Forester's designee; (5) The Director of the Department of Arkansas State Police or the director's designee; (6) The Director of the Department of Parks and Tourism or the director's designee; (7) The Director of the Arkansas Department of Emergency Management or the director's designee; (8) The Director of the Department of Correction or the director's designee; (9) The Secretary of State or the Secretary's designee; (10) The Director of Arkansas Department of Environmental Quality or the director's designee; (11) The Adjutant General of the State Military Department or the Adjutant General's designee; (12) The Director of the Arkansas Soil and Water Conservation Commission or the director's designee; (13) The Director of the Department of Community Punishment or the director's designee; (14) The Director of the Arkansas Crime Information Center or the director's designee; (15) The Director of the Arkansas Department of Health or the director's designee; (16) The President of the Arkansas Sheriffs Association or the president's designee; (17) The President of the Arkansas Association of Chiefs of Police or the president's designee; (18) The President of the Arkansas Search and Rescue Association or the president's designee; (19) Two (2) persons appointed by the Speaker of the House of Representatives; (20) Two (2) persons appointed by the President Pro Tempore of the Senate; (21) One (1) person

appointed by the House Cochair of the Rural Fire Departments Study Commission; (22) One (1) person appointed by the Senate Cochair of the Rural Fire Departments Study Commission; (23) Two (2) persons appointed by the Governor; and (24) The Chairman of the Arkansas Fire Service Alliance or the Chairman's designee.

"(c) The chair of the Work Group shall be appointed by the Governor from the membership of the Work Group. The chair may appoint subcommittees as are necessary to carry out the provisions of this act.

"(d) The Work Group may be convened by a majority of members, or by the Chair.

"(e) Members shall not receive compensation for service on the Work Group but may receive expense reimbursement as provided in Arkansas Code 25-16-902.

"(f) All state agencies shall cooperate with the Work Group in the performance of its duties.

"(g) The Work Group shall exist cease to exist as of July 1, 2003.

"SECTION 3. The Department of Information Services shall provide staff support for the Work Group.

"SECTION 4. Emergency Clause. It is found and determined by the General Assembly that there is an urgent need to implement a statewide wireless information network; that this act establishes an AWIN Work Group to guide development and implementation of a statewide wireless information network; and that this act is immediately necessary so that the AWIN Work Group can complete its work in a timely way. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 992, § 1, provided: "SECTION 1. (a) State agencies which require any persons, agencies, boards, commissions, businesses, or other entities to display signs for the disabled shall require those persons, agencies, boards,

commissions, businesses, or other entities to display only the blue and white international symbol of access.

“(b) This section shall have no retroactive effect, applying only to signs installed subsequent to this section’s taking effect.

“(c) This section shall apply only if installation of a required sign can be achieved without creating a negative financial impact on any persons, agencies, boards, commissions, businesses, or other entities required to display signs for the disabled.”

Acts 2001, No. 1764, provided: “SECTION 1: Legislative Intent. The General Assembly finds that: (1) Arkansans and other Americans pay the highest prices in the world for prescription drugs; (2) Pharmaceutical companies are charging Arkansans excessive prices for prescription drugs, denying our citizens access to medically necessary health care, thereby threatening their health and well-being; (3) Lack of affordable access to medically necessary prescription drugs results in the denial of health care, the likelihood of serious illness and death, and the inability to lead a life of good health for many Arkansans; (4) Many Arkansans are admitted to or treated at hospitals each year, because they cannot afford the drugs prescribed for them; (5) Doctors report that their patients endanger themselves by taking only a portion of their recommended dosage of prescription drugs, because they are unable to afford the full, recommended dosage; (6) All Arkansans are threatened by the possibility that when they most need medically necessary prescription drugs they will be unable to afford their doctor’s recommended treatment; (7) Prescription drug costs represent the fastest growing item in health care, and are a driving force in rapidly increasing hospital costs and insurance rates; (8) Excessive pricing for prescription drugs threatens Arkansas’ ability to assist with the health care costs of our citizens, undermines the financial capacity of our communities to meet the educational needs of our children, hurts the ability of our business community to provide health insurance coverage to Arkansas’ workforce, and has a negative effect on Arkansas’ economy; (9) All Arkansas citizens should have access to medically necessary prescription drugs at the lowest possible prices; and (10) This law will be a

positive measure to make prescription drugs more affordable for Arkansans, thereby increasing the overall health of our families, benefiting employers and employees and the fiscal strength of our society, promoting healthy communities and improving the public health and welfare.”

“SECTION 2. Prescription Drug Advisory Commission. (a) There is established a Prescription Drug Advisory Commission.

“(b) The commission shall be composed of fifteen (15) members, as follows: (1) The Director of the Department of Human Services or a designee; (2) The Director of the Department of Health or a designee; (3) The Executive Director of the Employee Benefits Division of the Department of Finance and Administration or a designee, and; (4) Twelve (12) members to be appointed by the Governor, as follows: (A) One (1) person representing the University of Arkansas for Medical Sciences, from a list of three (3) supplied by the Chancellor of the University of Arkansas for Medical Sciences; (B) One (1) person who shall be a representative of senior citizens, from a list of three (3) supplied by the American Association of Retired Persons; (C) One (1) person who shall be a representative of a child advocacy organization, from a list of three (3) supplied by the Arkansas Advocates for Children and Family; (D) One (1) person who shall be a representative of a low-income advocacy group, from a list of three (3) supplied by the Association of Community Organizations for Reform Now; (E) One (1) person who shall be a labor advocate, from a list of three (3) supplied by the Arkansas AFL-CIO; (F) One (1) person who shall be a representative of physicians, from a list of three (3) supplied by the Arkansas Medical Society; (G) One (1) person who shall be a representative of pharmacists, from a list of three (3) supplied by the Arkansas Pharmacists Association; (H) One (1) person who shall be a representative of the business community, from a list of three (3) supplied by the Arkansas State Chamber of Commerce; (I) One (1) person who shall be a representative of health care professionals, from a list of three (3) supplied by the Arkansas Health Care Association; (J) One (1) person who shall be a representative of nurses, from a list of three (3) supplied by the Arkansas

Nurses Association; (K) One (1) person who shall be a representative of hospitals, from a list of three (3) supplied by the Arkansas Hospital Association; and (L) One (1) person who shall be a representative of the pharmaceutical manufacturers, from a list of three (3) supplied by the Pharmaceutical Research and Manufacturers of America.

“(c) Nominations shall be submitted to the Governor not later than thirty (30) days after the effective date of this act.

“(d) The Director of the Department of Human Services or the designee shall call the first meeting within sixty (60) days after the effective date of this act.

“(e) At the first meeting, the commission shall elect a chairperson who shall schedule subsequent meetings.

“(f) The commission may utilize subcommittees or work groups to complete various tasks.

“(g)(1) A majority of the membership shall constitute a quorum. (2) A majority vote of those members present shall be required for any action of the board.

“SECTION 3. DUTIES. (a) The Prescription Drug Advisory Commission shall study the establishment of a state prescription drug bulk-purchasing plan and the feasibility of the state subsidizing the cost of prescription drugs.

“(b) The focus of the study shall be on coverage for: (1) Persons with incomes up to three hundred percent (300%) of the federal poverty level who do not have a benefit program that includes drug coverage; (2) Medicaid-covered persons with incomes above two hundred percent (200%) of the federal poverty level who do not have coverage for prescription drugs; (3) Persons who earn less than two hundred percent (200%) of the federal poverty level; and (4) Persons sixty-five (65) years of age or older;

“(c) The commission shall make progress reports to the Governor and the Legislative Council, and the House and Senate Interim Committees on Public Health, Welfare, and Labor every ninety (90) days.

“(d)(1) The Arkansas Center for Health Improvement shall supply staff for the commission. (2) The center shall prepare the commission's reports and a report on any draft legislation needed to implement the commission's recommendations.

“(e) The commission shall examine

whether to combine efforts with regional authorities or surrounding states to recommend the establishment of a program to reduce prescription drug prices for residents of this state.

“(f) The report of the commission shall be completed by June 30, 2002, and shall be made to the Governor, the Legislative Council, and the House and Senate Interim Committees on Public Health, Welfare, and Labor.”

Cross References. Immunity from tort liability, § 16-120-101 et seq.

Effective Dates. Acts 1961, No. 487, § 4: Jan. 1, 1962.

Acts 1987, No. 895, § 3: Apr. 13, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that such access is needed by State agencies to properly and efficiently perform their duties and to access and limit the potential liability of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1989 (1st Ex. Sess.), No. 247, § 26: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Acts 1997, No. 181, § 5: February 17, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that the present law requiring annual mission statements and activity statements by state boards and commissions does not specify the timeframe within which such reports

must be filed; this act so provides; and that until this act becomes effective, confusion will exist as to when those filings are required. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1428, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 2001, No. 221, § 7: Feb. 13, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that the current incremental line-item system of budgeting is ineffective in evaluating agency performance; that to implement a replacement system in a reasonable time is a difficult

task and that to delay the implementation could cause the inability to meet critical deadlines. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1786, § 5: Apr. 19, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that immediate clarification is needed with regard to the authority to administer funds provided to the State of Arkansas under the federal Victims of Crime Act, the Violence Against Women Act, and the Family Violence Prevention and Services Act; and that this act, in order to comply with federal law, removes state legislative restrictions on the administration of such funds where the federal government has previously enacted legislation or regulations governing the authority to administer these funds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Cross References. Cooperation by other agencies, § 15-4-2606.

25-1-101. Emergency relocation of seat of government.

(a)(1) Whenever due to an emergency resulting from the effects of enemy attack or the anticipated effects of a threatened enemy attack it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the normal location of the seat thereof in the City of Little Rock, the Governor, as often as the exigencies of the situation require, shall by proclamation declare an emergency temporary loca-

tion for the seat of government at a place within or without this state which he or she may deem advisable under the circumstances. The Governor shall take any action and issue any orders which may be necessary for an orderly transition of the affairs of state government to the emergency temporary location.

(2) The emergency temporary location shall remain as the seat of government until the General Assembly shall by law establish a new location or until the emergency is declared to be ended by the Governor and the seat of government is returned to its normal location.

(b) During such time as the seat of government remains at the emergency temporary location, all official acts required by law to be performed at the seat of government by any officer, agency, department, or authority of this state, including the convening and meeting of the General Assembly in regular, extraordinary, or emergency session, shall be as valid and binding when performed at the emergency temporary location as if performed at the normal location of the seat of government.

(c) The provisions of this section shall control and be supreme in the event it shall be employed, notwithstanding the provisions of any other law to the contrary or in conflict herewith.

History. Acts 1961, No. 487, §§ 1-3; A.S.A. 1947, §§ 5-112 — 5-114.

Cross References. Emergency seat of local government, § 14-14-308.

25-1-102. State agency smoking policies.

(a) As used in this section, unless the context otherwise requires:

(1) "General office space" means space occupied by personnel performing their daily work functions;

(2) "Smoking" means a lighted cigar, cigarette, pipe, or any other ignited tobacco product; and

(3) "State agency" means any department, agency, board, commission, office, or other authority of the state.

(b) The chief administrative officer of each state agency shall promulgate a smoking policy for the general office space of the state agency. The policy shall take into consideration the rights of both nonsmokers and smokers.

History. Acts 1987, No. 462, §§ 1, 2.

Cross References. Public buildings and other facilities, § 22-3-201 et seq.

Public smoking, § 20-27-701 et seq.

Recruiting, hiring, and appointment of public officers and employees, § 21-3-201 et seq.

25-1-103. Records related to third-party liability for services provided by state.

Records prepared by or in the possession of entities having potential liability for payment for services provided by or paid for in whole or part by an agency of the State of Arkansas shall be made available for inspection, review, audit, and other purposes of representatives of the

State of Arkansas and its designee. This section applies to, but is not limited to, records of private health insurance carriers.

History. Acts 1987, No. 895, § 1.

25-1-104. Access of Department of Finance and Administration to agency records.

The Revenue Division of the Department of Finance and Administration, the Arkansas Employment Security Department, the University of Arkansas at Little Rock, the University of Arkansas at Fayetteville, the Arkansas Economic Development Commission, and any other state agency, board, commission, department, institution, college, university, or authority shall make data, information, statistics, or other records of information available to the Department of Finance and Administration. Provided, however, that such information and records shall not identify persons, people, conglomerates, corporations, monopolies, or others that would from any published data or data within the possession of the office of the Director of the Department of Finance and Administration reveal the identity or any information or data of that particular identity that would be in conflict with federal laws.

History. Acts 1989 (1st Ex. Sess.), No. 247, § 20; 1997, No. 540, § 47.

A.C.R.C. Notes. Former § 25-1-104, concerning access of Department of Finance and Administration to agency records, is deemed to be superseded by

this section. The former section was derived from Acts 1987, No. 1051, § 22.

Amendments. The 1997 amendment substituted "Arkansas Economic Development Commission" for "Arkansas Industrial Development Commission."

25-1-105. [Repealed.]

Publisher's Notes. This section, concerning annual reports, was repealed in its entirety by Acts 2001, No. 221, § 6. The section was derived from Acts 1995, No. 1123, § 1; 1997, No. 181, § 1; 1999, No. 1164, § 182; 1999, No. 1222, § 16; 1999, No. 1323, §§ 50-52; 2001, No. 1800, § 18.

This section's repeal by Acts 2001, No. 221, § 6, was deemed by the Arkansas Code Revision Commission to supersede the amendments of this section by Acts 2001, No. 537, § 3; 2001, No. 783, § 6; 2001, No. 1185, § 4; and 2001, No. 1800, § 18. See §§ 1-2-207 and 1-2-303.

25-1-106. Evaluation of necessity of various commissions and boards.

(a) Any part-time state board or commission which has not convened a meeting or has convened without a quorum for two (2) consecutive, regularly scheduled meeting dates within a two-year period shall vote to elect a new chair and vice chair.

(b) If a part-time state board or commission has not convened a regularly scheduled meeting or has convened without a quorum for four (4) consecutive, regularly scheduled meeting dates within a two-year period, the Joint Performance Review Committee shall reevaluate the purpose, need, and effectiveness of the board or commission. The

committee shall report its findings and any recommendations concerning the existence of the board or commission to the Legislative Council and shall draft legislation to implement the recommendations.

(c)(1) Each part-time board and commission shall provide the committee with a list of the regularly scheduled meeting dates for the board or commission, including the attendance record of each member and the number of meetings which were convened.

(2) This information shall be submitted to the committee biannually beginning January 1, 2000.

History. Acts 1997, No. 1205, § 1; 1999, No. 1308, § 1.

Amendments. The 1999 amendment inserted "part-time" preceding "board" towards the beginning of (a), (b), and (c); substituted "Joint Performance Review Committee" for "House and Senate Interim Committees on State Agencies and Governmental Affairs" twice in (b) and

once in (c); substituted "within a two (2) year period" for "within two (2) years prior to June 1, 1999" in (a) and (b); substituted "Joint Performance Review Committee biannually beginning January 1, 2000" for "House and Senate Interim Committees on State Agencies and Governmental Affairs by September 1, 1997" in (c); and made stylistic changes.

25-1-107. Guidelines for advisory bodies.

(a) Where advisory bodies are specified by state or federal legislation or guidelines to act in conjunction with the entity or organization designated to administer funds of the Victims of Crime Act, the STOP Violence Against Women Act, and the Family Violence Prevention and Services Act, the duties and protocol of those advisory bodies, as well as responsibilities of the state administrative agency, shall include, but not be limited to, the following:

(1) After providing the opportunity for review and advice by the advisory bodies, the state administrative agency shall:

(A) Establish a proposal activity calendar one hundred eighty (180) days prior to the start of the upcoming funding cycle;

(B)(i) Establish procedures and dates for review of subgrant funding applications for each funding cycle.

(ii) The state administrative agency shall provide copies of subgrant applications submitted for review to the chairperson of each relevant advisory body;

(C) Establish, consistent with federal law, subgrant application forms;

(D) Establish deadlines for receiving subgrant applications;

(E) Establish dates of subgrant application technical assistance training sessions;

(F) Establish subgrant applicant appeal process procedures; and

(G) Develop a statewide victim service needs assessment and strategic plan for Victims of Crime Act, STOP Violence Against Women Act, and Family Violence Prevention and Services Act funds pursuant to applicable federal program guidelines; and

(2) The state administrative agency shall meet with the relevant advisory bodies no later than thirty (30) days prior to the scheduled

date of mailing of application forms for the purpose of providing an opportunity for review of the content of the application forms. The state administrative agency shall provide drafts of all necessary subgrant application forms to the chairperson of the relevant advisory boards prior to such a meeting.

(b) The state administrative agency shall make available to members of the advisory bodies, upon request, copies of current federal and state law and guidelines concerning the relevant Victims of Crime Act, STOP Violence Against Women Act, and Family Violence Prevention and Services Act programs, including any formal interpretations of such law and guidelines by the state administrative agency.

(c) Any copies of forms, laws, guidelines, or interpretations required to be furnished by the state administrative agency must be made available on computer diskette or other requested electronic media if the requested item is feasibly able to be produced in the requested manner.

(d) The state administrative agency shall provide quarterly reports concerning subgrantee and administrative financial activity to the Governor and to the chairperson of each advisory body within ten (10) working days of the completion of the reports.

(e) Within one hundred twenty (120) days following the start of a subgrant funding cycle, the state administrative agency shall meet with focus groups made up of those programs that or individuals who applied for funds through the Victims of Crime Act, STOP Violence Against Women Act, or Family Violence Prevention and Services Act grant programs in the most recent funding cycle. These meetings are for the purpose of evaluating the effectiveness and responsiveness of the application, application review, and funding recommendation process in order to maintain the integrity of those processes. The state administrative agency shall provide reports of these meetings to the Governor and to the chairperson of each advisory body within ten (10) working days of the completion of the meetings.

History. Acts 1999, No. 1428, § 27; 2001, No. 1786, § 4.

A.C.R.C. Notes. Acts 2001, No.120, § 26, provided: "Where advisory bodies are specified by state or federal legislation or guidelines to act in conjunction with the entity or organization designated to administer funds of the Victims of Crime Act (VOCA), the STOP Violence Against Women Act (VAWA), and the Family Violence Prevention and Services Act (FVPSA), the duties and protocol of those advisory bodies, as well as responsibilities of the state administrative agency, shall include, but not be limited to the following:

"(1) Advisory bodies shall develop and finalize a Request For Proposal activity

calendar, in a cooperative effort with the state administrative agency, six (6) months prior to the start of the upcoming funding cycle.

"(a) Advisory bodies shall establish procedures and dates, in a cooperative effort with the state administrative agency, for review of subgrant funding applications for each funding cycle. The state administrative agency shall provide copies of subgrant applications submitted for review to each member of the relevant advisory body.

"(b) Advisory bodies shall meet, in a cooperative effort with the state administrative agency, to review and advise the state administrative agency on subgrant application forms for each upcoming

subgrant funding cycle no later than thirty (30) days prior to the scheduled date of mailing of application forms. The state administrative agency shall provide drafts of all necessary subgrant application forms to each member of the relevant advisory boards as required for the joint and cooperative review processes.

“(c) Advisory bodies shall establish a specified number of days, in cooperation with the state administrative agency, that potential applicants will be given to submit completed subgrant funding applications, from the time application forms are ready for distribution, and establish deadlines, in cooperation with the state administrative agency, for receiving subgrant applications.

“(d) Advisory bodies shall establish dates, in cooperation with the state administrative agency, of subgrant application technical assistance training sessions recommended by the advisory body.

“(e) Advisory bodies shall develop, in cooperative effort with the state administrative agency, subgrant applicant appeal process procedures.

“(2) Each advisory body member shall be provided copies of current federal and state guidelines, and formal interpretations by the state administrative agency.

“(3) Advisory bodies shall review each subgrant application and advise the state administrative agency on recommended funding amounts for each subgrant project.

“(4) Applications, guidelines, and other forms shall be made available to the advisory committee on computer diskette, or other electronic media by the state administrative agency.

“(5) Quarterly reports by the designated state administrative agency, which reflect subgrantee and administrative financial activity, will be given to the chairperson of

each separate advisory body and to the Governor within ten (10) working days of the completion of such reports.

“(6) Within ninety (90) days following the start of a subgrant funding cycle, each respective advisory body, in cooperation with the state administrative agency, shall jointly convene separate focus groups made up of a representative sample of those programs or individuals who applied for funds through the VOCA, VAWA or FVPSA Grant Programs in the most recent funding cycle. These meetings are for the purpose of evaluating the effectiveness and responsiveness of the application, application review and funding recommendation process, in order to maintain the integrity of those processes. Reports of these meetings shall be given to the chairperson of each separate advisory body and to the Governor within ten (10) working days of the completion of such meetings.

“It is intended that this language reflect the requirement that the designated advisory bodies identified above, and designated state administrative agency act in a cooperative, supportive and responsive role in the processes outlined above. The provisions of this section shall be in effect only from July 1, 2001 through June 30, 2003.”

Amendments. The 2001 amendment rewrote the section.

U.S. Code. The Victims of Crime Act, referred to in this section, is codified as 18 U.S.C. § 3150a and 42 U.S.C. §§ 10601 - 10605.

The Violence Against Women Act of 1994, referred to in this section, is codified primarily as 42 U.S.C. § 13701.

The Family Violence Prevention and Services Act, referred to in this section, is codified as 42 U.S.C. § 10401 et seq.

25-1-108. Report.

(a) For purposes of this section, “state agency” means every department, division, office, board, commission, and institution of this state, excluding state-supported institutions of higher education.

(b) Every state agency that receives grants in excess of twenty-five thousand dollars (\$25,000) from any source shall report to the Legislative Council within forty-five (45) calendar days after receipt of a grant.

(c) The report shall include:

(1) The amount of the grant;

- (2) The purpose of the grant;
- (3) The source of the grant;
- (4) Conditions of the grant; and
- (5) Any other information requested by the Legislative Council.

(d) All state-supported institutions of higher education shall continue to report grants to the Department of Finance and Administration quarterly on forms prescribed by the department, and the department shall upon receipt thereof file the reports with the Legislative Council.

History. Acts 2001, No. 319, § 1.

25-1-109. Televised public service announcements.

All state agencies that make televised public service announcements shall ensure that those announcements are either closed-captioned or open-captioned.

History. Acts 2001, No. 813, § 1.

25-1-110. Cost-effectiveness of state-owned vehicles.

(a) Each agency shall ensure that the purchase and continued ownership of state-owned vehicles is cost effective for the agency.

(b)(1) Each agency shall determine if the purchase or continued ownership of a vehicle is cost effective based upon a comparison between state vehicle ownership and private car mileage reimbursement break-even points, as established pursuant to regulations promulgated by the Department of Finance and Administration.

(2) The comparison shall be based upon the previous year's use of the state-owned vehicle.

(c) On June 1 of every year, each agency shall provide the department a report including:

- (1) The number of agency vehicles;
- (2) The mileage used on the agency vehicles;
- (3) Any private car mileage reimbursements; and
- (4) Justification for retention of all vehicles identified as underutilized.

(d) By September 1 of each year, the department shall provide each agency and the Legislative Council with recommendations concerning the continued ownership of state-owned vehicles by each agency.

(e) The provisions of this section do not apply to institutions of higher education and vocational technical institutes.

History. Acts 2001, No. 1711, § 1.

25-1-111. Designation.

(a) The Governor shall have the authority to designate the state agency responsible for the administration and disbursement of funds received by the State of Arkansas under the Victims of Crime Act, the

STOP Violence Against Women Act, and the Family Violence Prevention and Services Act in the manner authorized by federal law.

(b) The state agency designated by the Governor under this section shall not disburse Victims of Crime Act, STOP Violence Against Women Act, or Family Violence Prevention and Services Act funds without providing an opportunity for subgrantee qualification selection assistance and programmatic support by the Arkansas Child Abuse/Rape/Domestic Violence Commission and other advisory bodies established to assist potential beneficiaries of those funds.

(c) The state agency designated by the Governor under this section shall not disburse Victims of Crime Act funds without providing an opportunity for review of and advice concerning grant processes and grant funding by:

(1) Two (2) representatives selected by the Arkansas Coalition Against Sexual Assault;

(2) Two (2) representatives selected by the Arkansas Coalition Against Domestic Violence;

(3) Two (2) representatives selected by the Arkansas Court Appointed Special Advocate Association;

(4) Two (2) representatives selected by the Prosecution Coordination Commission;

(5) One (1) representative selected by the Criminal Justice Institute Advisory Board; and

(6) One (1) representative each from any other advisory body determined to be necessary by the state administrative agency, including, but not limited to, the elderly, non-English-speaking residents, disabled persons, members of racial or ethnic minorities, and residents of rural or remote areas.

(d)(1) The state agency designated by the Governor under this section shall not disburse funds under the law enforcement, prosecution, and judiciary percentages of the STOP Violence Against Women Act without providing an opportunity for review of and advice concerning grant processes and grant funding by:

(A) Two (2) representatives selected by the Arkansas Coalition Against Sexual Assault;

(B) Two (2) representatives selected by the Arkansas Coalition Against Domestic Violence;

(C) One (1) representative selected by the Criminal Justice Institute Advisory Board;

(D) The Prosecution Coordination Commission; and

(E) One (1) representative each from any other advisory body determined to be necessary by the state administrative agency, including, but not limited to, the elderly, non-English-speaking residents, disabled persons, members of racial or ethnic minorities, and residents of rural or remote areas.

(2) The state agency designated by the Governor under this section shall not disburse funds under the victims services and discretionary percentages of the STOP Violence Against Women Act without provid-

ing an opportunity for review of and advice concerning grant processes and grant funding by:

(A) Two (2) representatives selected by the Arkansas Coalition Against Sexual Assault;

(B) Two (2) representatives selected by the Arkansas Coalition Against Domestic Violence;

(C) Two (2) representatives selected by the Prosecution Coordination Commission;

(D) One (1) representative selected by the Criminal Justice Institute Advisory Board; and

(E) One (1) representative each from any other advisory body determined to be necessary by the state administrative agency, including, but not limited to, the elderly, non-English-speaking residents, disabled persons, members of racial or ethnic minorities, and residents of rural or remote areas.

(e) The state agency designated by the Governor under this section shall not disburse Family Violence Prevention and Services Act funds without providing an opportunity for review of and advice concerning grant processes and grant funding by:

(1) Two (2) representatives selected by the Arkansas Coalition Against Sexual Assault;

(2) Two (2) representatives selected by the Arkansas Coalition Against Domestic Violence;

(3) One (1) representative selected by the Prosecution Coordination Commission;

(4) One (1) representative selected by the Criminal Justice Institute Advisory Board;

(5) One (1) representative selected by the Arkansas Court Appointed Special Advocate Association; and

(6) One (1) representative each from any other advisory body determined to be necessary by the state administrative agency, including, but not limited to, the elderly, non-English-speaking residents, disabled persons, members of racial or ethnic minorities, and residents of rural or remote areas.

(f) The state agency designated by the Governor under this section shall promulgate rules and regulations consistent with federal law setting forth the policies and procedures for the administration and disbursement of Victims of Crime Act, STOP Violence Against Women Act, and Family Violence Prevention and Services Act funds, including policies and procedures for the participation and assistance of advisory bodies established to assist potential beneficiaries of those funds.

History. Acts 2001, No. 1786, § 1.

U.S. Code. The Victims of Crime Act, referred to in this section, is codified as 18 U.S.C. § 3150a and 42 U.S.C. §§ 10601 - 10605.

The Violence Against Women Act of

1994, referred to in this section, is codified primarily as 42 U.S.C. § 13701.

The Family Violence Prevention and Services Act, referred to in this section, is codified as 42 U.S.C. § 10401 et seq.

SUBCHAPTER 2 — PAPER REDUCTION

SECTION.

25-1-201. Legislative intent.

25-1-202. Distribution of reports to the General Assembly.

25-1-203. Distribution of other publications.

SECTION.

25-1-204. Publications to be included in agency budget.

25-1-205. Copies to be filed with the Legislative Council.

25-1-206. Definition of “state agency”.

25-1-201. Legislative intent.

(a) It is the intent of the General Assembly to reduce the excessive flow of unsolicited state agency reports which, after being written, printed, and distributed at significant public expense, are received without having been requested by legislative offices, state agency offices, and other recipients who often shelve, destroy, or otherwise dispose of the unsolicited material often, again, at significant expense to the public.

(b) It is not the intent of the General Assembly to reduce the free flow of information between state government and the public. Rather, the intent is to reduce the use of state government publications for other than required informational purposes and to effect a reduction in the escalating public expense of writing, printing, and distributing unsolicited state agency reports.

History. Acts 1999, No. 1276, § 1.

25-1-202. Distribution of reports to the General Assembly.

Reports by state agencies which are required to be submitted to the General Assembly shall only be submitted to:

- (1) The Speaker of the House;
- (2) The President Pro Tempore of the Senate;
- (3) The member of the General Assembly who was the lead sponsor of the legislation authorizing the preparation of the report; and
- (4) The Director of the Bureau of Legislative Research.

History. Acts 1999, No. 1276, § 2.

25-1-203. Distribution of other publications.

(a) No state agency shall distribute a state publication except as provided in this section.

(b) The state agency shall compile a mailing list of persons requesting publications distributed by the agency. Prior to distributing the publication, the state agency shall send by mail a card requesting the interested party to return the card to the state agency if the interested party wishes to receive the publication. The card shall include the agency Web site on which the publication is located. Upon receipt of the card, the state agency shall then send the publication to the interested party.

(c) This section shall not apply to the following publications:

- (1) Public information pamphlets;
 - (2) Copies of legislative bills;
 - (3) Copies of statutes, laws, and regulations;
 - (4) Information disseminated to the press or requested pursuant to the Freedom of Information Act of 1967, § 25-19-101 et seq.;
 - (5) Publications which are applications, instructions, or guidelines for complying with any state or federal law, regulation, or policy;
 - (6) Newsletters containing fewer than four (4) pages. The newsletter shall include a statement providing the receiver of the newsletter the option and method of removing the person's name from the newsletter's mailing list;
 - (7) Directories;
 - (8) Documents generated, published, or otherwise disseminated by the Center for Health Statistics of the Department of Health;
 - (9) Publications of the University of Arkansas Cooperative Extension Service; and
 - (10) Information, forms, and notices necessary to comply with state tax laws, driver's licensing laws, and motor vehicle registration and titling laws.
- (d) A state agency shall not be prohibited from distributing an abstract which contains a description of any reports submitted to the General Assembly and of any other information that is available upon request.
- (e) Each state agency shall place the publication on the state agency's Internet Web site. The Department of Information Systems shall assist those state agencies requesting assistance in placing publications on the state agency's Internet Web site.

History. Acts 1999, No. 1276, § 3.

25-1-204. Publications to be included in agency budget.

Beginning with the 1999-2000 fiscal year, each state agency shall include in its budget request a list of state publications which are required by statutory law and shall state in writing the reasons for the continued publication or distribution of its publications.

History. Acts 1999, No. 1276, § 4.

25-1-205. Copies to be filed with the Legislative Council.

Every state agency which publishes or distributes a state publication shall file a copy of the publication with the Legislative Council if the state agency has published or distributed more than one thousand (1,000) copies of the publication in the preceding calendar year. This section shall not apply to:

- (1) Copies of legislative bills;
- (2) Copies of statutes, laws, and regulations;
- (3) Information disseminated solely to the press;

- (4) Publications that are applications, instructions, or guidelines for complying with any state or federal law, regulation, or policy;
- (5) Promotional brochures and educational materials published by the Department of Parks and Tourism;
- (6) Publications of the University of Arkansas Cooperative Extension Service; and
- (7) Marketing and promotional information published by the Arkansas Department of Economic Development.

History. Acts 1999, No. 1276, § 5.

25-1-206. Definition of “state agency”.

The term “state agency” as used in this subchapter does not include institutions of higher education.

History. Acts 1999, No. 1276, § 6.

SUBCHAPTER 3 — MEMBERS OF EXECUTIVE BRANCH BOARDS AND COMMISSIONS

| | |
|---|---|
| SECTION. | |
| 25-1-301. Legislative intent. | missions not to be members of the General Assembly. |
| 25-1-302. Members of specified executive branch boards and com- | |

Effective Dates. Acts 1999, No. 1414, § 6: Apr. 13, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the Arkansas Supreme Court has ruled that service by members of the General Assembly on executive branch boards and commissions which exercise the sovereign powers of this state is unconstitutional; that this act will avoid further litigation and cure uncertainty as to whether service on the several boards and commissions constitutes unconstitutional service; and that this act should go into effect immediately in order to settle the

issue without further litigation. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

25-1-301. Legislative intent.

In recognition of the Arkansas Supreme Court’s decision in *State Bd. of Workforce Educ. and Career Opportunities v. King*, 336 Ark. 409, 985 S.W.2d 731 (1999), it is the intent of this subchapter to replace all legislator members of executive branch boards and commissions with appointees who are not members of the Senate or House of Representatives.

History. Acts 1999, No. 1414, § 1.

25-1-302. Members of specified executive branch boards and commissions not to be members of the General Assembly.

(a) As soon as possible after April 13, 1999, the appointing authorities shall replace members of the General Assembly serving on executive branch boards and commissions identified below with persons who are not members of the General Assembly:

- (1) Advisory Committee on Accountability, § 6-15-804 [repealed];
- (2) Arkansas Alcohol and Drug Abuse Coordinating Council, § 20-64-1002;
- (3) Arkansas Alternative Dispute Resolution Commission, § 16-7-102;
- (4) Arkansas Aviation and Aerospace Commission, § 15-4-1501;
- (5) Commission to Assist Persons Who Have Suffered Catastrophic Financial Loss, § 12-81-101 [repealed];
- (6) Capitol Arts and Grounds Commission, § 22-3-502;
- (7) Catastrophic Financial Loss Commission, § 12-81-101 [repealed];
- (8) Arkansas Child Abuse/Rape/Domestic Violence Commission, § 20-82-201;
- (9) Supervisory Board for the Arkansas Crime Information Center, § 12-12-202;
- (10) Community Work, Recreation, and Youth Opportunities Commission, § 9-31-302 [repealed];
- (11) Arkansas Early Childhood Commission, § 20-78-501;
- (12) State Interagency Council, § 20-14-508;
- (13) Arkansas Entertainers Hall of Fame Board, § 13-9-101;
- (14) Trauma Advisory Council, § 20-13-807;
- (15) Arkansas Health Resources Commission, § 20-77-202 [repealed];
- (16) Martin Luther King, Jr. Commission, § 25-24-101;
- (17) Mansion Advisory Council, § 22-3-806;
- (18) Arkansas Minority Health Commission, § 20-2-102;
- (19) Arkansas Natural and Cultural Resources Council, § 15-12-101;
- (20) Arkansas Natural Heritage Commission, § 15-20-304;
- (21) Commission on Improving Public Schools' Basic Skills Opportunities Through Technology, § 6-16-402 [abolished];
- (22) Arkansas Pygmalion Commission on Nontraditional Education, uncodified Act 1288 of 1993, as amended;
- (23) Quality Management Board, § 25-23-103 [repealed];
- (24) Arkansas Rural Development Commission, § 15-6-104;
- (25) School Self-Insurance Advisory Committee, § 6-20-1504;
- (26) School Motor Vehicle Self-Insurance Advisory Committee, § 6-21-711;
- (27) School Transportation Funding Commission, Acts 1997, No. 1133, § 4;

- (28) Arkansas Science and Technology Authority, § 15-3-103;
- (29) Arkansas Sentencing Commission, § 16-90-802;
- (30) State Building Services Council, § 22-2-106;
- (31) State and Public School Life and Health Insurance Board, § 21-5-402;
- (32) Compliance Advisory Panel of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, § 8-4-314;
- (33) Trauma Advisory Council, § 20-13-807;
- (34) Arkansas Transitional Employment Board, § 20-76-105;
- (35) Arkansas Public Transportation Coordination Council, § 27-3-103;
- (36) Arkansas Tuition Trust Authority, § 6-62-903 [repealed];
- (37) Board of Visitors for the University of Arkansas at Pine Bluff, § 6-64-304;
- (38) Arkansas Women's Commission, § 20-84-102 [repealed];
- (39) Workers' Compensation Commission, § 11-9-201; and
- (40) State Board of Workforce Education and Career Opportunities, § 25-30-101.

(b) Hereafter, and not withstanding any law to the contrary, no member of the General Assembly shall be appointed to any executive branch board or commission identified in subsection (a) of this section. The President Pro Tempore of the Senate and the Speaker of the House of Representatives, in consultation with the Attorney General's office, shall make a determination concerning any other board or commission having legislative members. If the President Pro Tempore of the Senate and the Speaker of the House of Representatives determine that legislative service on the board or commission would violate the Arkansas Supreme Court's decision in *State Bd. of Workforce Educ. and Career Opportunities v. King*, 336 Ark. 409, 985 S.W.2d 731 (1999), they shall notify the appointing authority, who shall appoint a person who is not a member of the General Assembly as a replacement for the legislative member.

History. Acts 1999, No. 1414, § 2; 2001, No. 783, §§ 4, 5.

A.C.R.C. Notes. The Advisory Committee on Accountability listed in subdivision (a)(1) of this section was repealed by Acts 2001, Nos. 775 and 783; the Commission to Assist Persons Who Have Suffered Catastrophic Loss listed in subdivision (a)(5) of this section, and the Catastrophic Financial Loss Commission listed in subdivision (7) (which is the same entity) were repealed by Acts 1999, No. 1133; the Community Work, Recreation, and Youth Opportunities Commission listed in subdivision (a)(10) of this section was repealed by Acts 1999, No. 1133; the Arkansas Health Resources Commission listed in subdivi-

sion (a)(15) of this section was repealed by Acts 1999, No. 1133; the Commission on Improving Public Schools' Basic Skills Opportunities Through Technology listed in subdivision (a)(21) of this section was abolished by Acts 1999, No. 148; the name of the Arkansas State Employee and Public School Personnel Board was changed to the "State and Public School Life and Health Insurance Board" by Acts 1999, No. 1280, and is listed in subdivision (a)(31) of this section; the name of the Transitional Employment Assistance Program Advisory Council was changed to the "Arkansas Transitional Employment Board" by Acts 1999, No. 1567, and is listed in subdivision (a)(34) of this section;

the Arkansas Tuition Trust Authority listed in subdivision (a)(36) of this section was repealed by Acts 1999, No. 996; and the Arkansas Women's Commission listed in subdivision (a)(38) of this section was repealed by Acts 1999, No. 661.

Acts 2001, No. 783, § 1, provided: "The following are hereby abolished: (1) The Advisory Committee on Accountability; (2) The Crowley's Ridge Trail Commission; (3) The Advisory Council to the Arkansas

Natural Heritage Commission of the Department of Arkansas Heritage; (4) The Advisory Board for Director of the Arkansas High Technology Training Center; (5) The Low-Level Radioactive Waste Advisory Group; (6) The Arkansas Medal of Honor Commission; (7) The Quality Management Board; and (8) The Arkansas Task Force on Timber Land Assessment."

Amendments. The 2001 amendment deleted former (a)(10) and (a)(35).

CHAPTER 2

ADMINISTRATIVE DEPARTMENTS GENERALLY

SECTION.

- 25-2-101. Legislative findings and purpose — Construction.
- 25-2-102. Certain professional boards excepted.
- 25-2-103. Effect of act on preexisting rules, regulations, etc.
- 25-2-104. Type 1 transfers.

SECTION.

- 25-2-105. Type 2 transfers.
- 25-2-106. Type 3 transfers.
- 25-2-107. Type 4 transfers.
- 25-2-108. Reports, certifications, etc., to transferred agency.
- 25-2-109. Senatorial confirmation of certain appointments.

Publisher's Notes. Acts 1971, No. 38, which is primarily codified in chapters 2-14 of this title, reorganized the structure of state government by creating or continuing certain principal administrative departments into which various agencies and programs were transferred. However, many principal departments, referred to by Acts 1971, No. 38, are originally created, or their duties defined, by statutes which are integrally related to, and codified in, other titles of the Arkansas Code. It should also be noted that Acts 1971, No. 38, as amended, is not completely comprehensive and does not refer to a number of departments which are created elsewhere in the Arkansas Code. Please consult the notes throughout chapters 2-14 for references to relevant provisions in other titles.

Acts 1971, No. 38, also created several principal departments which were later abolished. Section 4 of the act, as amended by Acts 1975, No. 278, § 1, created the Department of Local Services which was abolished by Acts 1983, No. 690. Sections 14 and 16 of the act, respectively, created the Department of Public Safety and the Department of Commerce which were abolished by Acts 1981, No. 45, and Acts 1983, No. 691, respectively.

Cross References. Damages adjudged against state officers and employees, payment by state, § 21-9-201 et seq.

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 348, § 16: July 1, 1985.

25-2-101. Legislative findings and purpose — Construction.

(a) The General Assembly declares that this act is necessary:

(1) To create a structure of state government which will be responsive to the needs of the people of this state and sufficiently flexible to meet changing conditions;

(2) To establish executive authority over those areas where executive responsibility presently lies;

(3) To provide a reasonable opportunity to create budgetary and administrative efficiencies within an orderly organizational structure of state government;

(4) To strengthen the role of the General Assembly in state government;

(5) To encourage greater participation of the public in state government;

(6) To effect the grouping of state agencies into a limited number of departments primarily according to function; and

(7) To eliminate overlapping and duplication of effort.

(b) It is the intent of the General Assembly to provide for an orderly transfer of powers, duties, and functions of the various state agencies to the principal departments with a minimum of disruption of governmental services and functions and with a minimum of expense.

(c) To the ends stated in this section, this act shall be liberally construed.

History. Acts 1971, No. 38, § 1; A.S.A. 1947, § 5-901.

Publisher's Notes. Acts 1971, No. 38, § 1, provided, in part, that employees who were members of any retirement system at the time of the 1971 governmental reorganization would not lose any accrued retirement benefits as a result of the transfer of any department, commission, or agency. The employees were allowed six (6) months from the date of the transfer to

elect whether to continue in the same retirement system or join the system for which the transfer made them eligible.

Meaning of "this act". Acts 1971, No. 38, codified as §§ 6-11-101, 6-11-102, 25-2-101 — 25-2-109, 25-5-101, 25-6-102, 25-7-101, 25-8-101, 25-8-105, 25-9-101, 25-10-101, 25-10-102, 25-10-106, 25-11-101, 25-11-102, 25-12-101, 25-13-101, 25-14-101.

25-2-102. Certain professional boards excepted.

Nothing in this act shall apply to state boards that license the professions of the healing arts under the following statutes:

(1) Chiropractics, § 17-81-101 et seq.;

(2) Dentistry, § 17-82-101 et seq.;

(3) Medicine and surgery, § 17-95-201 et seq.;

(4) Nursing, § 17-87-101 et seq.;

(5) Optometry, § 17-90-101 et seq.;

(6) Pharmacy, § 17-92-101 et seq.;

(7) Physical therapy, § 17-93-101 et seq.;

(8) Podiatry, § 17-96-101 et seq.;

(9) Psychology, § 17-97-201 et seq.;

(10) Massage therapy, § 17-86-101 et seq.;

(11) Veterinary medicine, § 17-101-101 et seq.

History. Acts 1971, No. 38, § 17; A.S.A. 1947, § 5-917.

Publisher's Notes. The references to the code sections in Title 17 have been updated to reflect the 1995

realphabetization of the chapters in that title.

Meaning of "this act". See note to § 25-2-101.

25-2-103. Effect of act on preexisting rules, regulations, etc.

This act shall not affect the orders, rules, regulations, and standards made or promulgated before February 4, 1971, by any department, institution, division, bureau, board, commission, council, or other agency, the functions, powers, and duties of which have been herein assigned or transferred to a principal department established by this act. The orders, rules, regulations, and standards shall continue with full force and effect until amended or repealed pursuant to law.

History. Acts 1971, No. 38, § 17 [17A]; A.S.A. 1947, § 5-918.

Meaning of "this act". See note to § 25-2-101.

25-2-104. Type 1 transfers.

(a)(1) When any department, institution, or other agency, or part thereof, is transferred to a principal department under a type 1 transfer, that department, institution, or other agency, or part thereof, shall be administered under the direction and supervision of that principal department but shall retain exactly the same prescribed statutory powers, authorities, duties, and functions as it had prior to the transfer, including:

(A) Rulemaking, regulation, licensing, and registration;

(B) The promulgation of rules, rates, regulations, and standards; and

(C) The rendering of findings, orders, and adjudications.

(2) It shall exercise those powers, authorities, duties, and functions independently of the head of the principal department.

(b) Following a type 1 transfer, the members of any statutory board or commission so transferred, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the board or commission as such statutes may from time to time be amended.

(c) Notwithstanding subsections (a) and (b) of this section, under a type 1 transfer, all budgeting, purchasing, and related management functions of any transferred department, institution, or other agency, or part thereof, shall be performed under the direction and supervision of the head of the principal department.

History. Acts 1971, No. 38, § 2; 1985, No. 348, § 8; A.S.A. 1947, § 5-902.

Publisher's Notes. Acts 1971, No. 38, § 3, provided that any then-existing

board, commission, advisory board, or other entity not enumerated in the reorganization act, but established by law within, or advisory to, a department, in-

stitution, or other agency would continue to exercise all its powers, duties, and functions under the principal department in accordance with the type of transfer under which the preexisting department, institution, or other agency was transferred.

Acts 1971, No. 38, § 18, provided that the act would not affect any civil or crim-

inal actions or proceedings which were pending on February 4, 1971, and which involved any agency transferred to a principal department. It further provided that any order, recommendation, or other proceeding by such an agency would not be affected by the reorganization.

Meaning of "this act". See note to § 25-2-101.

25-2-105. Type 2 transfers.

(a) Under this act, a type 2 transfer means the transferring of all or part of an existing department, institution, or other agency to a principal department established by this act. When all or part of any department, institution, or other agency is transferred to a principal department under a type 2 transfer, its statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting or purchasing, are transferred to the principal department.

(b) When any department, institution, or other agency, or part thereof, is transferred by a type 2 transfer to a principal department under the provisions of this act, its prescribed powers, duties, and functions, including rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudications are transferred to the head of the principal department into which the department, institution, or other agency, or part thereof, has been transferred.

(c) Following a type 2 transfer, the members of any statutory board or commission so transferred, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to that board or commission as such statutes may from time to time be amended.

History. Acts 1971, No. 38, § 2; 1985, No. 348, § 8; A.S.A. 1947, § 5-902.

Meaning of "this act". See note to § 25-2-101.

CASE NOTES

Cited: State Office of Child Support Enforcement v. Harnage, 322 Ark. 461, 910 S.W.2d 207 (1995).

25-2-106. Type 3 transfers.

(a) Under this act, a type 3 transfer means the abolishing of an existing department, institution, or other agency and the transferring of all or part of its powers, duties, and functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds to a principal department as specified under this act.

(b) When any department, institution, or other agency, or part thereof, is transferred by a type 3 transfer to a principal department

under the provisions of this act, its prescribed powers, duties, and functions including rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudications are transferred to the head of the principal department into which the department, institution, or other agency, or part thereof, has been transferred.

History. Acts 1971, No. 38, § 2; A.S.A. 1947, § 5-902.

Meaning of "this act". See note to § 25-2-101.

25-2-107. Type 4 transfers.

(a) Under this act, a type 4 transfer means the transferring of all or part of an existing department, institution, or other agency to a principal department established by this act in the following circumstances:

(1) When all or part of any department, institution, or other agency is transferred to a principal department under a type 4 transfer, the board or commission or other governing body of the transferred department, institution, or other agency is retained and shall continue to exercise its statutory authority, powers, duties, and functions, except that any rules, regulations, and standards issued by the board, commission, or other governing body shall be subject to written approval by the Governor;

(2) The director of the department, institution, or other agency shall be nominated by the board or commission or governing body of the transferred department, institution, or other agency subject to confirmation by the Governor. The director shall serve at the pleasure of the Governor; and

(3) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, are transferred to the principal department.

(b) Following a type 4 transfer, the members of any statutory board or commission so transferred and their successors shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the board or commission as such statutes may from time to time be amended.

History. Acts 1971, No. 38, § 2; 1985, No. 348, § 8; A.S.A. 1947, § 5-902.

Meaning of "this act". See note to § 25-2-101.

25-2-108. Reports, certifications, etc., to transferred agency.

Unless specifically provided otherwise in this act or by any operative law, whenever, pursuant to existing law, reports, certifications, applications, or requests are required or permitted to be made to a department, institution, division, bureau, board, commission, council, or other agency whose powers and duties are herein assigned or transferred by a type 2, 3, or 4 transfer, then those reports and certifications shall thereafter be filed with, and the applications or requests shall thereaf-

ter be made to, the principal department or agency to which assignment or transfer has been made.

History. Acts 1971, No. 38, § 19; A.S.A. 1947, § 5-920.

Meaning of "this act". See note to § 25-2-101.

25-2-109. Senatorial confirmation of certain appointments.

(a) Irrespective of other provisions of this act to the contrary, if the laws in effect on the date of the passage of this act required senatorial confirmation of the appointment of any board or commission member, or of the head of any agency or department of government, or of any head of a division of an agency or department of government, and that board, commission, agency, or department is consolidated or merged with a principal department under this act, then the appointments requiring confirmation shall be made as provided in this act with respect to all agencies merged or consolidated into a principal department by a type 1, 2, 3, or 4 transfer.

(b) It is the intent of this act, with respect to all affairs of government which are under the administrative control or responsibility of any official of government whose appointment was subject to senatorial confirmation prior to the passage of this act, that the head of the successor department or the head of the division within the successor department into which the agency or program was merged shall be subject to confirmation of the Senate.

History. Acts 1971, No. 38, § 21; A.S.A. 1947, § 5-922.

Publisher's Notes. With reference to the phrase "date of the passage of this act," Acts 1971, No. 38, § 21, was ap-

proved by the Governor and became effective on February 4, 1971.

Meaning of "this act". See note to § 25-2-101.

CHAPTER 3

DEPARTMENT OF ARKANSAS HERITAGE

SECTION.

- 25-3-101. Legislative intent — Construction.
- 25-3-102. Creation — Director — Organization — Personnel.
- 25-3-103. Transfers into department.
- 25-3-104. Arkansas Natural and Cultural Heritage Advisory Committee.

SECTION.

- 25-3-105. Fees for publications, seminars, etc.
- 25-3-106. Publication Development and Resale Revolving Fund.
- 25-3-107. Restriction on printing expenditures.
- 25-3-108. Heritage foundation.
- 25-3-109. [Repealed.]

Cross References. Historic preservation, statewide program of, § 13-7-101 et seq.

Preambles. Acts 1975, No. 1001 con-

tained a preamble which read: "Whereas, Arkansas is a State rich in cultural resources; and

"Whereas, there now exists numerous

culturally oriented agencies and programs in the various departments of this government;

"Now, therefore, the Legislature of the State of Arkansas recognizes the need for a statewide program devoted to the development of the natural and cultural heritage of the State of Arkansas, and enacts this measure for the achievement of that purpose...."

Effective Dates. Acts 1975, No. 1001, §§ 9, 10: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is a need for a State-wide program devoted to the development of the cultural heritage of the State of Arkansas, and that the immediate passage of this Act is necessary in order that the reorganization contemplated by this Act may be accomplished on or before July 1, 1975. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval." Approved April 11, 1975.

Acts 1985, No. 346, § 45: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1989 (1st Ex. Sess.), No. 9, § 60: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for

which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1995, No. 531, § 70: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1999, No. 1508, § 19: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act makes various technical corrections in the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by

the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-3-101. Legislative intent — Construction.

(a) The General Assembly declares that this act is necessary:

(1) To create a structure of state government which will be responsive to the cultural needs of the people of this state and sufficiently flexible to meet changing conditions;

(2) To provide for greater budgetary and administrative efficiencies within an orderly organizational structure of government;

(3) To encourage greater participation of the public in the cultural affairs of the state;

(4) To effect the grouping of culturally oriented state agencies and programs into one (1) department; and

(5) To eliminate overlapping and duplication of effort.

(b) It is the intent of the General Assembly to provide for an orderly transfer of powers, duties, and functions of the various state programs or agencies to the Department of Arkansas Heritage with a minimum of disruption of governmental services and functions and with a minimum of expense.

(c) To the ends stated in this section, this act shall be liberally construed.

History. Acts 1975, No. 1001, §§ 1, 2;
A.S.A. 1947, §§ 5-923n, 5-926.

Meaning of "this act". Acts 1975, No.
1001, codified as §§ 25-3-101 — 25-3-104.

25-3-102. Creation — Director — Organization — Personnel.

(a) There is created a Department of Arkansas Heritage.

(b) The executive head of the department shall be the Director of the Department of Arkansas Heritage. The director shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(c) The director, with the advice and consent of the Governor, shall appoint the heads of each of the programs and agencies of the department. All other personnel of the department shall be employed by and serve at the pleasure of the director. However, nothing in this section shall be so construed as to reduce any right which an employee of the department shall have under any civil service or merit system.

(d) Each agency or program of the department shall be under the direction, control, and supervision of the department. The director may delegate his or her functions, powers, and duties to the head of any agency or program of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

History. Acts 1975, No. 1001, § 4; A.S.A. 1947, § 5-923.

Publisher's Notes. Acts 1975, No. 1001, § 4, which enacted this section, created a Department of Arkansas Natural and Cultural Heritage. Acts 1985, No. 346, § 42, renamed the department as the Department of Arkansas Heritage.

Acts 1975, No. 1001, § 4, also transferred the following agencies and programs to the department by type 1 transfers: the Office of Arkansas State Arts and Humanities (§ 13-8-101 et seq.); the Arkansas Commemorative Commission (§ 13-7-201 et seq.); the Arkansas His-

toric Preservation Program as established by Acts 1969, No. 368 (Repealed — now see § 13-7-101 et seq.); the Arkansas Territorial Capitol Restoration Commission (§ 13-7-301 et seq.); the State Committee on Stream Preservation created by Acts 1967, No. 437 (Repealed) and the Arkansas Environmental Preservation Commission (now the Arkansas Natural Heritage Commission — see § 15-20-301 et seq.).

Cross References. Approval of contracts between federal government and Natural and Scenic Rivers Commission, § 15-23-310.

25-3-103. Transfers into department.

(a)(1) When any program or agency, or part thereof, is transferred to the Department of Arkansas Heritage, that program or agency or part thereof shall be administered under the direction and supervision of the department but shall retain exactly the same described statutory power, authority, duties, and functions.

(2) The members, and their successors, of any statutory board or commission so transferred shall continue to be selected in the manner and serve for the terms now provided by the statutes applicable to such boards or commissions as those statutes may from time to time in the future be amended.

(b) Notwithstanding subsection (a) of this section, all budgeting, purchasing, and related management functions of any transferred program or agency, or part thereof, shall be performed under the direction and supervision of the Director of the Department of Arkansas Heritage.

History. Acts 1975, No. 1001, § 3; A.S.A. 1947, § 5-924.

25-3-104. Arkansas Natural and Cultural Heritage Advisory Committee.

(a) There is established an Arkansas Natural and Cultural Heritage Advisory Committee whose members shall consist of:

(1) The chair of each of the respective commissions within the Department of Arkansas Heritage;

(2) Five (5) members to be chosen from the public at large, with at least one (1) member to be chosen from each of the four (4) congressional districts of the state, to represent the general interest of the citizens of this state;

(3) The Director, or his or her designee, of the Arkansas Archeological Survey.

(b) The committee shall advise the director and the Governor on all aspects of the adequacy, development, operation, and needs of programs

and activities of the department and on overall coordination of the state's programs of natural and cultural heritage.

(c) The Governor shall designate the chair of the committee.

History. Acts 1975, No. 1001, § 5;
A.S.A. 1947, § 5-925.

25-3-105. Fees for publications, seminars, etc.

(a) The Department of Arkansas Heritage through its Central Administration Division or any successor division is authorized to establish and impose reasonable fees to recover costs incurred in the preparation and distribution of educational published materials and in holding workshops and seminars and costs of other services rendered.

(b) Funds derived from the fees shall be deposited in a bank account to be used to defray the initial costs of publishing additional educational publications and holding workshops and seminars.

History. Acts 1985, No. 346, § 39;
A.S.A. 1947, § 5-923.2.

25-3-106. Publication Development and Resale Revolving Fund.

(a) There is established a fund to be known as the Publication Development and Resale Revolving Fund for the Department of Arkansas Heritage. This fund shall be located in the Central Administration Division of the Department of Arkansas Heritage and shall be managed by the division for the benefit of the various agencies located within the department. This fund shall be a revolving fund.

(b) Income derived from the sale of publications shall be deposited in the fund to be used to develop and purchase additional publications for resale.

(c) Any funds remaining in the account from which the fund derives its support at the end of each fiscal year shall carry forward and be made available for the use prescribed in this section during the succeeding fiscal year.

History. Acts 1985, No. 346, § 41; opment and Resale Revolving Fund, § 19-
A.S.A. 1947, § 5-923.4. 5-1001.

Cross References. Publication Devel-

25-3-107. Restriction on printing expenditures.

No moneys may be expended by the Department of Arkansas Heritage for the purchase of any state printing contract item until the Great Seal of the State of Arkansas is placed on the letterhead of all agencies and commissions within the department.

History. Acts 1989 (1st Ex. Sess.), No.
9, § 52.

A.C.R.C. Notes. Former § 25-3-107,
concerning restrictions on printing expen-

ditures, is deemed to be superseded by
this section. The former section was de-
rived from Acts 1987, No. 547, § 48. A
similar provision, which was also codified

as § 25-3-107 and was previously superseded, was derived from Acts 1985, No. 346, § 40; A.S.A. 1947, § 5-923.3.

25-3-108. Heritage foundation.

(a) In addition to any other rights, powers, functions, and duties granted by law to the Department of Arkansas Heritage, the department is hereby authorized to promote and cooperate in the establishment of a heritage foundation under the Arkansas nonprofit corporation law, to share resources and facilities with the foundation, and to accept support and assistance in the form of money, property, or otherwise from the foundation to be used to preserve and promote the heritage of the state.

(b) If a heritage foundation is established and the department shares resources or facilities with the foundation or accepts support and assistance from the foundation, the foundation shall annually file a report with the Governor, the Legislative Council, and the Legislative Joint Auditing Committee showing the amount and source of all gifts, grants, and donations of money or property received by the foundation and all expenditures or other dispositions of money or property by the foundation during the preceding year.

(c) On or before July 1 of each fiscal year, the Director of the Department of Arkansas Heritage shall submit a plan to the Legislative Council reflecting the proposed uses of private funds for the ensuing fiscal year for its review and comment. No person over whom the department has day-to-day managerial control shall receive compensation or remuneration from funds not in the State Treasury.

History. Acts 1989 (1st Ex. Sess.) No. 9, §§ 49-51.

A.C.R.C. Notes. Former § 25-3-108, concerning the establishment and operation of a heritage foundation, is deemed to be superseded by this section. The former

section was derived from Acts 1987, No. 547, §§ 45-47.

Cross References. Arkansas Nonprofit Corporation Act, § 4-28-201.

Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.

25-3-109. [Repealed.]

Publisher's Notes. This section, concerning compensation for extra help, was repealed by Acts 1999, No. 1508, § 13.

The section was derived from Acts 1995, No. 531, § 61.

CHAPTER 4

DEPARTMENT OF INFORMATION SYSTEMS

SECTION.

- 25-4-101. Title.
- 25-4-102. Legislative findings and declaration of intent.
- 25-4-103. Definitions.

SECTION.

- 25-4-104. Department of Information Systems.
- 25-4-105. Department of Information Systems — General pow-

SECTION.

- ers and duties.
- 25-4-106. Reporting requirements.
- 25-4-107. Office of Information Technology — General powers and duties.
- 25-4-108. Office of Information Technology — Working groups.
- 25-4-109. Information technology centers.
- 25-4-110. Information technology — Planning.
- 25-4-111. Information technology — Prerequisites.
- 25-4-112. Application to educational institutions.
- 25-4-113. [Repealed.]
- 25-4-114. Contracts and agreements for information technology.
- 25-4-115. Professional services contracts

SECTION.

- between the department and outside vendors.
- 25-4-116. Payment for information technology.
- 25-4-117. Delinquent accounts.
- 25-4-118. [Repealed.]
- 25-4-119. Budget procedures.
- 25-4-120. Revisions to budget, purchasing, and personnel process.
- 25-4-121. Department of Information Systems Revolving Fund.
- 25-4-122. Reserve for equipment acquisition — Loans.
- 25-4-123. Information Technology Reserve Fund.
- 25-4-124. Yearly computation of expenses — Disposition of surplus funds.

Effective Dates. Acts 1977, No. 884, § 26: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly that the establishment of a Department of Computer Services within the Executive Department of Government is necessary to ensure the most efficient use of data processing and telecommunications systems within State government. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 796, § 9: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1979 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1979, would work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in

full force and effect from and after July 1, 1979."

Acts 1979, No. 820, § 4: Apr. 10, 1979. Emergency clause provided: "It has been found by the General Assembly that coordination of acquisitions of data processing equipment or services by public colleges or universities is important to the effective expenditure of public funds. Therefore, an emergency is declared to exist, and this Act, being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval."

Acts 1979, No. 951, § 1: Apr. 17, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that clarification of the purposes for which the Reserve for Equipment may be used and establishment of the Computer Services Reserve Fund are necessary for efficient use and administration of such accumulated funds. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after the date of its passage and approval."

Acts 1985, No. 463, § 4: Mar. 21, 1985. Emergency clause provided: "It is hereby found by the General Assembly that coordination of acquisitions of data processing equipment or services by public colleges or universities and post-secondary vocation-

al-technical schools is important to the effective expenditure of public funds. Therefore, an emergency is declared to exist, and this Act, being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval."

Acts 1997, No. 914, § 35: July 1, 1997. Emergency clause provided: "It is found and determined by the Eighty-First General Assembly that continuing advances in the field of communications and information technology make it necessary to establish a Department of Information Systems within the Executive Department of Government to better coordinate and utilize such technology; and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1997, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health,

and safety shall be in full force and effect from and after July 1, 1997."

Acts 2001, No. 1722, § 19: Apr. 17, 2001. Emergency clause provided: "It is hereby found and determined by the General Assembly that this Act 1042 of 2001 was enacted with an emergency clause; that this act makes changes to current law that are necessitated by Act 1042 of 2001; and that this law should become effective as soon as possible in order to complement and implement Act 1042 of 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-4-101. Title.

This chapter shall be known and cited as the "Arkansas Information Systems Act of 1997".

History. Acts 1977, No. 884, § 1; A.S.A. 1947, § 5-1401; Acts 1997, No. 914, § 1.

Amendments. The 1997 amendment rewrote this section.

A.C.R.C. Notes. This section formerly used the heading "Definitions." that is now being used by § 25-4-103.

25-4-102. Legislative findings and declaration of intent.

(a) The General Assembly finds and declares information and information resources to be strategic assets of the State of Arkansas and that procedures must be established to ensure that:

- (1) Information resources are used in an efficient manner;
- (2) Departmental resources are used unless an exception is authorized;
- (3) Information is administered and shared, consistent with requirements for security, privacy, and confidentiality;
- (4) Information technology acquisitions meet state needs and are consistent with coordinated efforts to maximize standardization and cost effectiveness; and
- (5) State officials have timely access to information in useful forms.

(b) The General Assembly further declares its intent to create a state agency to:

(1) Support the information technology initiatives established by the Executive Chief Information Officer;

(2) Provide design and management services for the state's core information technology infrastructures;

(3) Provide information technology services;

(4) Implement appropriate technologies to exchange and share information; and

(5) Develop technical standards and provide technical leadership and guidance to support the state's shared technical architecture.

(c) It is also the intent of the General Assembly that this state agency achieve certain objectives that will better support information technology utilization by other state agencies. These objectives are to:

(1) Implement increased capabilities for communication and exchange of information;

(2) Establish technical standards for information technology; and

(3) Develop mechanisms for more timely acquisition of information technology.

(d)(1) The General Assembly further finds and determines that:

(A) Information technology services are readily available in the private sector;

(B) The public interest would be well-served by competition for the provision of such services to the state;

(C) Public-private partnerships or joint ventures for the provision of such services may be appropriate in certain instances; and

(D) Emphasis should be given to encouraging and enabling competition among suppliers of such services wherever possible in the administration of this chapter.

(2) The Department of Information Systems shall consider in the development of the department plan and the Joint Committee on Advanced Communications and Information Technology shall emphasize in its recommendations and policies the availability in the private sector of information technology resources upon a competitive bid basis with a view to assuring the state of the highest reasonable quality of resources at the lowest reasonable cost.

History. Acts 1977, No. 884, § 24; The 2001 amendment rewrote subdivisions A.S.A. 1947, § 5-1417; Acts 1997, No. 914, § 2; 2001, No. 1722, § 1.

Amendments. The 1997 amendment rewrote this section.

25-4-103. Definitions.

As used in this chapter:

(1) "Administrator" means the Administrator of the Office of Information Technology;

(2) "Application" means a separately identifiable and interrelated set of information technology resources that allows information processing to support specifically defined objectives;

(3) "Core information technology infrastructure" means the state data, state network and application interfaces, and state security;

(4) "Department" means the Department of Information Systems;

(5) "Director" means the Director of the Department of Information Systems;

(6) "Equipment" means the machines, devices, and transmission facilities used in information processing, including computers, word processors, terminals, telephones, cables, software, and related services;

(7) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(8) "Information technology" means any component related to information processing and telecommunications, including data processing and telecommunications hardware, software, services, planning, personnel, facilities, and training;

(9) "Information technology resources" means the procedures, equipment, and software that are designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and the associated personnel including consultants and contractors;

(10) "Network infrastructure" means the shared portions of the state's telecommunications transmission facilities, including all transmission lines and all associated equipment and software components necessary for the management and control of the state network;

(11) "Other governmental entities" means state-elected constitutional officers and their staffs, the Supreme Court and the Administrative Office of the Courts, the General Assembly or its committees or staffs, the Arkansas State Highway and Transportation Department, the Arkansas Game and Fish Commission, the federal government, cities, counties, municipalities, and public school districts;

(12) "Project" means a program to apply information technology resources to functions within or among elements of a state agency that ideally is characterized by well-defined parameters, specific objectives, common benefits, planned activities, a scheduled completion date, and an established budget with a specified source of funding;

(13) "Public instrumentality" means any statutorily created entity charged with the responsibility of providing information or services through the use of information technology;

(14) "State agencies" means all state departments, boards, and commissions but shall not include the elected constitutional officers and their staffs, the General Assembly and its committees and staffs, or the Supreme Court and the Administrative Office of the Courts, and public institutions of higher education with respect to academic, research, healthcare, and existing information technology applications and underlying support therefor;

(15) "State of Arkansas shared technical architecture" means the structure of program or system components, how these components

relate to one another, and the principles that govern their design and evolution over time; and

(16) “Telecommunications” means all forms of communications devices and transport media for the conveyance by electronic or electrical means of voice, words, data, signals, or images.

History. Acts 1977, No. 884, § 2; A.S.A. 1947, § 5-1402; Acts 1997, No. 914, § 3; 2001, No. 1722, § 2.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment deleted “a state agency to accomplish” following “allows” in (2); added present (3); redesignated former (3) through (9) as present (4)

through (10); inserted “the” before “associated personnel” in present (9); deleted former (10); in (14), deleted “and institutions of higher learning,” following “commissions” and added “and public institutions...therefor,” added present (15); redesignated former (15) as present (16); and made related changes throughout.

25-4-104. Department of Information Systems.

(a) There is established within the executive department of government a Department of Information Systems.

(b)(1) The department shall be headed by a director to be appointed by the Governor, subject to confirmation by the Senate in the manner provided by law, and shall serve at the pleasure of the Governor.

(2) The director shall be a person who, by education and training, has technical knowledge and management experience in information technology-related equipment, systems, and services.

(3) The director shall qualify by filing the oath of office required in the Constitution of this state with the Secretary of State.

(c) There is established an Office of Information Technology. The Administrator of the Office of Information Technology shall be appointed by the the Executive Chief Information Officer.

(d) The director may establish divisions and the organizational structure deemed necessary and appropriate for the efficient performance of the duties imposed under the provisions of this chapter, provided the organizational structure of the department shall conform to the positions authorized and limitations provided therefor in the biennial appropriation of the department.

(e) The director shall appoint the deputy and division directors and the professional, technical, and clerical assistants and employees as necessary to perform the duties imposed by this chapter. All employees of the department shall be employed by and serve at the pleasure of the director.

(f) The director shall report to the Governor any matters relating to abuses of this chapter.

(g) The director shall recommend statutory changes to the Governor.

History. Acts 1977, No. 884, § 3; A.S.A. 1947, § 5-1403; Acts 1997, No. 914, § 4; 2001, No. 1722, § 3.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment deleted “Office of Information Technology” from the end of the section heading; deleted former (c) and (e); redesignated former (d) as present (c); in present (c), deleted “within the Depart-

ment of Information Systems” after “established” and substituted “director of the department” with “the Executive Chief Information Officer”; and redesignated former (f) through (i) as present (d) through (g).

25-4-105. Department of Information Systems — General powers and duties.

The Department of Information Systems shall be vested with all the powers and duties necessary to administer the department and to enable it to carry out fully and effectively the regulations and laws relating to the department. These powers and duties relate to information technology and include, but are not limited to:

(1) Conceptualizing, designing, developing, building, and maintaining common information technology infrastructure elements used by state agencies and governmental entities;

(2) Providing information technology services to state agencies and other governmental entities;

(3) Entering into contracts with state agencies and other governmental entities for the purpose of providing information technology services;

(4) Establishing fair and reasonable schedules of rates or fees to be paid by state agencies and governmental entities that are provided service to enable the department to defray the cost of providing the services as provided in this chapter;

(5) Establishing a billing rate plan to be developed for a two-year period to coincide with the budgeting process. The same rate structure will apply to all agencies and entities receiving service;

(6) Acquiring information technology on behalf of state agencies, the cost of which shall be recovered through customer billings or through direct funding;

(7) Promulgating rules and regulations that are necessary for efficient administration and enforcement of the powers, functions, and duties of the department as provided in this chapter;

(8) Developing a departmental plan to support the goals and objectives set forth for it in the state information technology plans and strategies. The department shall seek the advice of the Executive Chief Information Officer in the development of its plan; and

(9) Performing any additional powers, functions, and duties which are necessary and appropriate for the proper administration of the provisions of this chapter.

History. Acts 1977, No. 884, § 5; A.S.A. 1947, § 5-1405; Acts 1997, No. 914, § 5; 2001, No. 1722, § 4.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment rewrote (1); in (5),

deleted the former first sentence and substituted “Establishing a billing rate plan” for “A billing rate plan shall”; substituted “or through direct funding” for “at established rates” in (6); rewrote (8); and deleted (10).

25-4-106. Reporting requirements.

(a)(1) The Director of the Department of Information Systems will report periodically to the Joint Committee on Advanced Communications and Information Technology and the Executive Chief Information Officer regarding the status of the Department of Information Systems' information technology responsibilities in state government.

(2) The director will forward to the joint committee any statutory changes that the department may recommend sufficiently in advance of the convening of the regular session of the General Assembly.

(3) The director may report any factors that are outside the scope of the department but are deemed to inhibit or to promote the department's responsibilities.

(b) The director may appoint committees as are necessary to provide the department with expertise and advice concerning information technology or the services provided by the department.

History. Acts 1977, No. 884, § 6; A.S.A. 1947, § 5-1406; Acts 1997, No. 914, § 6; 2001, No. 1722, § 5.

A.C.R.C. Notes. Acts 2001, No. 1042, § 8, provided: "The current Department of Information Systems Steering Committee and the Department of Information Systems Advisory Board are hereby abolished."

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment, in (a)(1), substituted "Director of the Department of Information Systems" for "director," deleted

"and annually" following "periodically," inserted "and the Executive Chief Information Officer" preceding "regarding," inserted "the Department of Information Systems" following "status of", and inserted "responsibilities" preceding "in state government"; deleted "Arkansas" preceding "General Assembly" in (a)(2); in (a)(3), replaced "effective exchange...government" with "department's responsibilities"; deleted former (b) and (c); redesignated former (d) as present (b); and deleted "other" preceding "committees" in present (b).

25-4-107. Office of Information Technology — General powers and duties.

The Office of Information Technology shall be vested with all the powers and duties necessary to carry out regulations and laws relating to the department and to oversee and administer information technology and shall:

- (1) Assist the department in performing its duties;
- (2) Review agencies' information technology plans and requests;
- (3) Provide leadership in coordinating information technology;
- (4) Advise agencies in acquiring information technology service;
- (5) Advise agencies regarding information technology contracts and agreements;
- (6) Monitor national and international standards relating to information technology;
- (7) Develop and publish policies, procedures, and standards relating to information technology and ensure agencies' compliance with those policies, procedures, and standards;
- (8) Develop standards to promote and facilitate electronic access to government information and interoperability of information systems;

(9) Develop a state information technology plan that shall establish a state-level mission, goals, and objectives for the use of information technology; and

(10) Foster interagency use of information technologies that is consistent with the established strategic direction of information technology and avoids unnecessary duplication.

History. Acts 1977, No. 884, § 8; A.S.A. 1947, § 5-1408; Acts 1997, No. 914, § 7.

Amendments. The 1997 amendment rewrote this section.

25-4-108. Office of Information Technology — Working groups.

(a) The Director of the Department of Information Systems shall appoint working groups as necessary to provide the office with expertise and advice on information technology.

(b) Members shall have knowledge and experience in information technology.

(c) Members shall annually elect a chair.

(d) A working group may be convened by a majority of members, by its chair, or by the administrator.

(e) Members shall not receive compensation for service to the working groups.

(f) Members may receive reimbursement for actual and necessary expenses reasonably incurred in performing board service, subject to applicable limitations on reimbursement as provided by law.

History. Acts 1977, No. 884, § 8; 1979, No. 820, § 2; 1985, No. 463, § 1; A.S.A. 1947, § 5-1408; Acts 1997, No. 914, § 8.

Amendments. The 1997 amendment rewrote this section.

25-4-109. Information technology centers.

(a) The Department of Information Systems is authorized to establish, maintain, and operate information technology centers and, in connection therewith, to rent, purchase, install, operate, and maintain information technology for state agencies as authorized in this chapter.

(b) The department is authorized to enter into contracts or agreements with state agencies for the purpose of providing information technology.

(c) State agencies are authorized to enter into any contracts with the department or its successor which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter.

(d) Agencies shall use the state core telecommunications, data, application, and security infrastructures.

(e) The department is authorized to enter into agreements and contracts with public utilities for telecommunications service.

(f) The information technology centers operated by the department shall be made available to all state agencies which fall within economical and feasible boundaries.

History. Acts 1977, No. 884, § 8; 1979, No. 820, § 2; 1985, No. 463, § 1; A.S.A. 1947, § 5-1408; Acts 1997, No. 914, § 9; 2001, No. 1722, § 6.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment, in (d), inserted “core” preceding “telecommunications” and substituted “data...infrastructures” for “network infrastructure.”

25-4-110. Information technology — Planning.

(a)(1) The Office of Information Technology shall develop the state information technology plan.

(2) The administrator under the direction of the Executive Chief Information Officer shall prepare the draft state information technology plan and periodic updates for the Governor and shall seek the advice of the working groups.

(3) Before the administrator submits the plan to the Governor, he or she shall seek the advice of the Joint Committee on Advanced Communications and Information Technology.

(b)(1) The Office of Information Technology shall develop information technology standards.

(2) The administrator shall prepare the draft standards and periodic updates for the Governor and shall seek the advice of the working groups.

(3) Before the administrator submits the state standards to the Governor, he or she shall seek the advice of the steering committee and the advisory board.

(c)(1) Each state agency shall develop a biennial information technology plan that establishes state agency goals, objectives, and policies regarding the development and use of information technology.

(2)(A) Each state agency shall specifically include a policy regarding the use of the Internet.

(B) A statement of the agency’s policy regarding the use of the Internet shall include:

(i) The penalties for violations of the agency’s Internet policy;

(ii) The number of employees and computers which have access to the Internet and the percentage of those employees and computers to the total number of employees and computers;

(iii) The needs of the agency and how those needs relate to the use of the Internet; and

(iv) The responsibilities of the agency’s employees as those responsibilities relate to the efficient and responsible use of the Internet.

(3) Plans may be updated by agencies in a timely manner to remain current and must accommodate changes in the evolving state information technology plan and standards.

(d) The Office of Information Technology shall distribute criteria, elements, form, and format for agency plans. Plans may include, but not be limited to, the following:

(1) A statement of the agency’s mission, goals, and objectives for information technology;

(2) Goals and objectives for achieving electronic access to agency records, information, and services;

(3) Consideration of a variety of information technologies, including those that help transcend geographic locations, standard business hours, economic conditions of users, and disabilities;

(4) Compliance with the Freedom of Information Act of 1967, § 25-19-101 et seq.;

(5) An explanation of how the state agency's mission, goals, and objectives for information technology support and conform to the state information technology plan developed by the office;

(6) An implementation strategy to include:

(A) Annual implementation objectives of the plan;

(B) Methods to educate both state employees and the public in the effective use of access technologies; and

(C) Agency activities to increase electronic access to public records and information to be implemented within available resources and existing state agency planning processes;

(7) Projects and resources required to meet the objectives of the plan;

(8) Estimated schedules and funding required to implement identified projects;

(9) An evaluation of the agency's performance relating to information technology;

(10) An assessment of progress made toward implementing the agency information technology plan;

(11) A discussion of progress toward electronic access to public information and enabling citizens to have two-way interaction for obtaining information and services from state agencies; and

(12) An inventory of state agency information technology.

(e) Plans developed or updated shall be submitted to the office. The office may reject, require modification to, or approve plans as deemed appropriate. Plans shall be modified by the state agency as necessary.

(f) Plans developed or updated by public instrumentalities shall be submitted for review to the Joint Committee on Advanced Communications and Information Technology. The committee may seek the assistance of the office in conducting this review. Plans shall be modified by the public instrumentality as necessary.

History. Acts 1977, No. 884, § 9; A.S.A. 1947, § 5-1409; Acts 1997, No. 914, § 10; 2001, No. 1287, § 1; 2001, No. 1722, § 7.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment by No. 1287 redesignated former (c) as present (c)(1) and (c)(3); substituted "goals, objectives, and policies" for "goals and objectives" in (c)(1); and inserted (c)(2).

The 2001 amendment by No. 1722 substituted "state agency" for "agency" throughout the section; in (a)(1), inserted "under the direction of the Executive

Chief Information Officer" and substituted "Governor" for "director"; in (a)(2), substituted "administrator" for "director," deleted "the steering committee and" following "advice of," and made gender neutral changes; substituted "Governor" for "director" in (b)(1); substituted "administrator" for "director" in (b)(2); redesignated former (c) as present (c)(1); in (c)(1), inserted "and policies" following "objectives," deleted the second sentence, and made minor punctuation changes; added (c)(2) through (c)(3) and made related changes; in (d), substituted "Office of In-

formation Technology" for "administrator" and substituted "distribute" for "seek the advice of the working groups before distributing"; and substituted "office" for "Office of Information Technology" in (d)(5), (e), and (f).

25-4-111. Information technology — Prerequisites.

(a) Unless the agency first receives approval for a plan or an updated plan as provided for under § 25-4-110, no state agency shall:

(1) Acquire by purchase or lease any new or additional information technology; or

(2) Enter into any contract for information technology.

(b) If an agency desires to acquire information technology not part of an information technology plan approved under § 25-4-110, the requesting agency shall submit a waiver request to the Executive Chief Information Officer that includes:

(1) Identification of necessary additional services or improvements in information technology;

(2) Relationship of the information technology improvements or additions to the overall goals of the agency;

(3) Resources needed to provide the additional services or improvements; and

(4) Measurement and evaluation criteria.

(c)(1) Upon evaluation of the waiver request, the Executive Chief Information Officer shall notify the agency in writing of his or her approval or rejection of the request and his or her reasons therefor.

(2) The Executive Chief Information Officer shall make his or her evaluation in a timely manner. If the Executive Chief Information Officer requires more than thirty (30) days to complete the evaluation, he or she shall report in writing to the Governor his or her reasons for the delay in completion.

(3) If the Executive Chief Information Officer rejects a request for a waiver, no state agency shall make any expenditure of public funds for the acquisition or expansion of information technology equipment or services.

(4) If the Executive Chief Information Officer determines that the agency needs additional information technology resources, he or she may:

(A) Authorize the agency to acquire the requested information technology;

(B) Authorize acquisition of a modified information technology configuration;

(C) Notify the agency of the availability of department facilities to provide the requested information technology; or

(D) Recommend that the information technology be provided through the facilities of some other designated state agency.

(d) All state agencies shall comply with the provisions of the Arkansas Procurement Law, § 19-11-201 et seq., and applicable provisions of the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., in the acquisition, purchase, contracting for the purchase of, and leasing of information technology.

History. Acts 1977, No. 884, § 10; A.S.A. 1947, § 5-1410; Acts 1997, No. 914, § 11; 2001, No. 1722, § 8.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment substituted "Executive Chief Information Officer" for "administrator" and made gender neutral

changes throughout this section; substituted "Executive Chief Information Officer" for "office" in (b); substituted "Governor" for "director" in (c)(2); deleted "except as provided in § 25-4-118" after "services" in (c)(3); and made minor stylistic changes in (c)(4).

25-4-112. Application to educational institutions.

(a)(1) In the case of state-supported institutions of higher education and state-supported postsecondary vocational-technical schools, the provisions of this chapter shall apply to business and administrative applications of information technology but do not apply to academic and research applications.

(2) On-campus telecommunications systems shall also be exempt from the provisions of this chapter except where they are connected to the state telecommunications network infrastructure.

(3) On-campus telecommunications systems shall be defined as those bounded by the outer perimeter of contiguous campus property.

(b)(1) A state-supported institution of higher education, a postsecondary vocational-technical school, or a public school district may request technical assistance regarding information technology from the Office of Information Technology.

(2) Assistance shall be provided by the office free of charge within a reasonable period. The requesting institution shall reimburse the Office of Information Technology for any actual expenses incurred while providing requested technical assistance.

History. Acts 1977, No. 884, § 16; A.S.A. 1947, § 5-1416; Acts 1997, No. 914, § 12.

Amendments. The 1997 amendment rewrote this section.

25-4-113. [Repealed.]

Publisher's Notes. This section, concerning acquisition of information technology by constitutional officers, General Assembly, Supreme Court, or Administrative Office of the Courts, was repealed by

Acts 2001, No. 1722, § 9. The section was derived from Acts 1977, No. 884, § 14; A.S.A. 1947, § 5-1414; Acts 1997, No. 914, § 13.

25-4-114. Contracts and agreements for information technology.

(a) In the event a state agency and the Department of Information Systems are unable to resolve a dispute, the matter shall jointly be referred to the Executive Chief Information Officer for resolution.

(b) Contracts for the provision of information technology are inter-agency agreements and are exempt from the provisions of the Arkansas Procurement Law, § 19-11-201 et seq., and the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., nor are they required to be submitted to the Legislative Council for advice.

History. Acts 1977, No. 884, § 15; A.S.A. 1947, § 5-1415; Acts 1997, No. 914, § 14; 2001, No. 1722, § 10.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment deleted former (a)(2) through (a)(4) and (b); rewrote present (a); and redesignated former (c) as present (b).

25-4-115. Professional services contracts between the department and outside vendors.

(a)(1) In the event that, due to unforeseen circumstances, the Department of Information Systems cannot provide sufficient information technology support to state agencies, the Director of the Department of Information Systems is authorized to enter into professional services contracts for the necessary information technology support.

(2) The department may also consolidate information technology needs to satisfy agency requests.

(b)(1) The department may utilize moneys appropriated for maintenance, operation, and payment of regular salaries of the department for the purchase of professional services upon approval thereof by the Chief Fiscal Officer of the State.

(2)(A) Provided, however, that before approving the use of moneys appropriated for payment of regular salaries of the department for obtaining professional services, the Chief Fiscal Officer of the State shall determine that resignations, vacancies in positions, or the inability to employ persons with technical skills to provide the services has necessitated that action.

(B) In addition, the Chief Fiscal Officer of the State shall obtain the advice of the Legislative Council before approving any transfer of regular salary appropriations to the maintenance and operation appropriation of the agency to be used for payment of professional services.

History. Acts 1977, No. 884, § 11; A.S.A. 1947, § 5-1411; Acts 1997, No. 914, § 15; 2001, No. 1722, § 11.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment deleted former (b)(1)(A) and made related changes; and inserted "maintenance, operation, and" preceding "payment" in present (b)(1).

25-4-116. Payment for information technology.

(a) Before a state agency may enter into an agreement with the Department of Information Systems for purchase of information technology, the agency shall certify that adequate appropriations and funds are available for purchasing information technology from the department.

(b)(1) If the state agency's line item appropriation for purchase of information technology is inadequate and if there are contemplated savings in the funds appropriated for the requesting agency which could be utilized for purchase of information technology without jeopardizing other essential programs and services of the state agency, then the savings which may be required for the purchase of services may be

transferred, upon written approval of the amount thereof by the Chief Fiscal Officer of the State, from any appropriation of the agency to the agency appropriation for the purchase of information technology on the books of the Auditor of State and the Chief Fiscal Officer of the State.

(2) Provided, however, before approving any transfers of moneys appropriated for a state agency to the line-item appropriation for purchase of information technology of that state agency, the Chief Fiscal Officer of the State shall obtain the advice of the Legislative Council with respect thereto.

(3) The transfers authorized in this chapter shall be made from time to time within the amounts authorized in the procedures set forth in this chapter, upon payment for information technology purchased from the department.

History. Acts 1977, No. 884, § 12; 1979, No. 796, § 4; A.S.A. 1947, § 5-1412; Acts 1997, No. 914, § 16.

Amendments. The 1997 amendment rewrote this section.

25-4-117. Delinquent accounts.

(a) For accounts that are thirty (30) days overdue and have no charges contested by the user, the Department of Information Systems may request the Chief Fiscal Officer of the State to transfer all or part of the overdue amount from the user's account to the department's revolving account. The Chief Fiscal Officer of the State shall transfer the amount within ten (10) working days.

(b) For accounts that are sixty (60) days overdue and have charges being contested by the user, the department may request the Chief Fiscal Officer of the State to transfer all or part of the overdue amount from the user's account to the department's revolving account. If the resolution of contested charges favors the user, the user may request the Chief Fiscal Officer of the State to transfer all or part of the overdue amount from the department's revolving account to the user's account.

(c) The department is authorized to discontinue information technology service to users who do not make a timely remittance of payment for services rendered and is specifically prohibited from providing services to state agencies lacking funds or sufficient appropriations to pay for the services.

History. Acts 1977, No. 884, § 7; A.S.A. 1947, § 5-1407; Acts 1997, No. 914, § 17; 2001, No. 1722, § 12.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment substituted "Ces-

sation of services to nonpaying users" for "Delinquent accounts" in the section heading; and rewrote the section.

Cross References. Department of Computer Systems Revolving Fund, § 19-5-1055.

25-4-118. [Repealed.]

Publisher's Notes. This section, concerning appeals, was repealed by Acts 2001, No. 1722, § 13. The section was

derived from Acts 1977, No. 884, § 13; 1979, No. 951, § 1; A.S.A. 1947, § 5-1413; Acts 1997, No. 914, § 18.

25-4-119. Budget procedures.

(a)(1) Prior to the commencement of budget hearings conducted by the Legislative Council, the Director of the Department of Information Systems shall prepare an operating budget indicating the amount of money which will be required to operate the department each year of the succeeding biennium.

(2) The director shall also provide cost information to users of information technology centers, and those who require new or expanded information technology shall be provided cost estimates for inclusion in their budget requests.

(b)(1) When the General Assembly has completed the appropriation process, the director shall oversee budgetary planning for the department for each fiscal year of the biennium.

(2) The proposed annual operating budget shall be submitted to the Governor for his or her approval prior to the beginning of each fiscal year.

(3) During the course of the biennium, the director shall make certain that the expenditures of the department do not exceed the income to be received by the department for the current fiscal year.

(4) If the director determines that rates charged to user agencies should be increased to meet the required expenditure level, he or she shall submit such proposed rate changes to the Governor for approval before any changes shall be effected.

(c) The quarterly allotment procedures applicable to state agencies, as defined by the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., shall be applicable to all appropriations funded directly through general revenue.

History. Acts 1979, No. 951, § 2; A.S.A. 1947, § 5-1413.1; Acts 1997, No. 914, § 19; 2001, No. 1722, § 14.

Amendments. The 1997 amendment rewrote this section.

The 2001 amendment deleted "and shall assure that planned information

technology expenditures for customers can be met from funds appropriated by the General Assembly" at the end of (b)(1); inserted "or her" in (b)(2); substituted "all...revenue" for "the department" in (c); and deleted former (d).

25-4-120. Revisions to budget, purchasing, and personnel process.

(a)(1) Prior to June 30 of each even-numbered year, the Legislative Council shall conduct a review of the state budget, purchasing, and personnel process used by state agencies regarding information technology.

(2) The Legislative Council shall prepare recommendations for changes in the information technology budget process for utilization in the development of state agency budgets for the next biennial budget cycle.

(b) All agencies of the executive branch shall cooperate fully with the Legislative Council to accomplish the purposes of this section.

(c) The Department of Information Systems shall make recommendations regarding revisions to the state budget, purchasing, and personnel process related to information technology to the Legislative Council by March 1 of each even-numbered year.

History. Acts 1977, No. 884, § 13; **Amendments.** The 1997 amendment A.S.A. 1947, § 5-1413; Acts 1997, No. 914, rewrote this section.
§ 20.

25-4-121. Department of Information Systems Revolving Fund.

(a) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Department of Finance and Administration the Department of Information Systems Revolving Fund.

(b) The fund shall consist of nonrevenue receipts derived from services provided to various agencies of the federal, state, city, and county governments, and any other moneys which may be provided by law for credit to the fund.

(c) All revenues received by the Department of Information Systems for providing information technology services shall be deposited in the State Treasury as nonrevenue receipts, there to be used for the maintenance, operation, and improvement of the department.

(d) All revenues received from agencies or other governmental entities for information technology services provided by contracts between the Department of Information Systems and outside vendors may be deposited in the State Treasury as refund to expenditures.

History. Acts 1997, No. 914, § 21; deleted former (b); and redesignated 2001, No. 1722, § 15. former (c) through (e) as present (b)

Amendments. The 2001 amendment through (d).

25-4-122. Reserve for equipment acquisition — Loans.

(a)(1) The Department of Information Systems is authorized to accumulate a reserve for equipment acquisition in an amount not to exceed the department's depreciation expense per fiscal year. The reserve shall be excluded from calculation of the department's fiscal-year surplus.

(2)(A) In addition, the department is authorized to obtain from the State Board of Finance loans from the Budget Stabilization Trust Fund to supplement the reserve if the reserve is insufficient to handle the total cost of required equipment acquisitions.

(B) These loans and the reserve for equipment acquisition shall be used exclusively for major equipment acquisitions or improvements of information technology required in order to fulfill the requirements for one (1) or more user agencies.

(C) The loans from the Budget Stabilization Trust Fund to the Information Technology Reserve Fund shall be repaid within five (5) years from revenues derived from charges to users, and the annual loan repayment amount shall be computed as a part of the total

yearly expenses of the department and shall be charged proportionately to users.

(b)(1)(A) However, before the State Board of Finance shall approve any requests for loans by the department authorized in subdivision (a)(2) of this section, the requests shall be submitted to the Governor for his or her approval after the Governor has first obtained the advice of the Legislative Council in regard thereto.

(B) After having obtained advice, the Governor may in writing approve or reject the request.

(C) However, if the Legislative Council shall fail to give its written advice or opinion to the Governor within thirty (30) days after receiving notice of the request for loans, the Governor may proceed to act on the matter without the advice of the Legislative Council.

(2) The State Board of Finance shall make no loans if the approval of the Governor has not been obtained therefor.

(3) The State Board of Finance, after obtaining the approval in writing of the Governor, shall also review and may approve the loans and establish terms of repayment and a rate of interest to be paid by the Department of Information Systems Revolving Fund to the Budget Stabilization Trust Fund. The rate shall be approximately equivalent to the rate of interest the State Board of Finance is receiving on other investments at the time of approving the loan request.

History. Acts 1997, No. 914, § 21.

25-4-123. Information Technology Reserve Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a fund to be known as the Information Technology Reserve Fund.

(b) This fund shall consist of those funds transferred from the Department of Information Systems Revolving Fund in an amount up to the authorized reserve for equipment acquisition as certified by the Chief Fiscal Officer of the State within thirty (30) days following the closing of each fiscal year, any loans which may be received from the Budget Stabilization Trust Fund, and any other moneys which may be provided by law, there to be used exclusively for major equipment acquisitions or improvements as set out in § 25-4-122.

History. Acts 1997, No. 914, § 21.

25-4-124. Yearly computation of expenses — Disposition of surplus funds.

(a) Within thirty (30) days following the closing of each fiscal year, the Director of the Department of Information Systems shall compute the total yearly expenses, related to the services provided, incurred by the department and compare this figure to the amounts billed and paid by the various users of information technology services for the fiscal year.

(b)(1) After the close of the fiscal year, any surplus of receipts over expenses less the reserve for equipment acquisition shall be credited to the various like-users' accounts within the Department of Information Systems Revolving Fund on a pro rata basis so that each user shall receive a percentage of the surplus which corresponds to the user's percentage of the total billings for that type of service to all users.

(2) Alternatively, in the event that a user no longer requires the services of the department, a fund transfer in the amount of that user's share of the calculated surplus shall be made from the Department of Information Systems Revolving Fund to the user's treasury fund, upon certification of the amount thereof by the director to the Chief Fiscal Officer of the State and the Treasurer of State. In the event the user does not have a treasury fund, a warrant shall be issued by the department in payment of the user's proportionate share.

(c) In the event that the user has an unpaid account balance for the preceding fiscal year, the user's share of the calculated surplus shall be withheld until the account balance is satisfied.

History. Acts 1997, No. 914, § 21.

CHAPTER 5

DEPARTMENT OF CORRECTION

SECTION.

25-5-101. Continuation — Organization.

A.C.R.C. Notes. Acts 2001, No. 1672, § 40, provided: "INMATE COST STUDY. (a) The Department of Correction, with the cooperation of the administrators of the several county jails, shall conduct a study of the various costs involved in the operation of county jails for the purpose of determining actual daily costs, by category of inmate, for housing state inmates in county jails and facilities operated by the department.

"(b) The costs shall be identified individually and shall include but not be limited to the following: Officers Salaries; Resident Wages; Other Salaries & Wages; 401K Contributions; FICA Expense; Staff Training; Medical Insurance; Unemployment Contributions; Workers' Compensation Insurance; Dental Insurance; Property Insurance; Liability Insurance; Telephone; Postage; Gas and Electricity; Water and Sewer; Refuse Service; Pest Control; Dues, Subscriptions, Publications; Printing; Audit and Fiscal; Legal; Clerical; Travel Expenses for Meals, Lodg-

ing and Other; Excise Taxes, Franchise Taxes; Other Taxes, Fees, Permits and Licenses; Lawsuits/EEOC Settlements; Medical Services; Other Services; Employee Clothing; Resident Clothing; Office Supplies; Medical Supplies; Personal Supplies; Laundry Supplies; Food Supplies; Food Service Supplies; Education Supplies; Law Enforcement Supplies; Recreational Supplies; Janitorial Supplies; Household Supplies; Repair and Maintenance Supplies; Miscellaneous Supplies; Repair and Maintenance of Vehicles; Repair and Maintenance of Other Equipment; Repair and Maintenance Contract Costs; Lease Expense - Straight-Line; Furniture and Equipment Rent Expense; Amortized Facility Rent Expense; General and Administrative Expense; Depreciation Expense;

"(c) The study shall be completed by June 30, 2002, and reported to the Legislative Council so that the statistics will be available to legislators to assist them in making the necessary decisions regarding

the reimbursement rates to the various county jails during the pre-session budget hearings of 2002.”

Cross References. Board of Corrections, duties, § 12-27-104.

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing condi-

tions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

25-5-101. Continuation — Organization.

(a) The Department of Correction, established by § 12-27-101 et seq., is continued.

(b) The department shall consist of those divisions which existed on July 1, 1971, and any other divisions which may be created by law and placed under the department.

History. Acts 1971, No. 38, § 13; A.S.A. 1947, § 5-913.

CHAPTER 6

DEPARTMENT OF EDUCATION

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. DIVISION OF REHABILITATION SERVICES. [REPEALED.]
3. WORKFORCE EDUCATION. [REPEALED.]

Cross References. Office of Rural Services created in Department of Education, § 6-11-118.

School Law, § 6-10-101 et seq.

Preambles. Acts 1987, No. 771, contained a preamble which read: “Whereas, State laws relating to vocational and technical education changed significantly during the past six years;

“Whereas, a careful study of statutes affecting vocational and technical education reveals several conflicts among various sections, instances of legislation by

inference rather than by specific provision, and inconsistency in terminology;

“Whereas, the Arkansas Statute Revision Commission is presenting to the 1987 General Assembly recommendations for recodifying the statutes; and

“Whereas, although the Commission members recognize the problems in vocational education, they believe that only the General Assembly has legal authority to resolve them;

“Now therefore”

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

25-6-101. Purpose.

25-6-102. Organization — Director.

SECTION.

25-6-103 — 25-6-106. [Repealed.]

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 64, § 6: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that under present laws, the responsibility for administering the various programs for vocational and technical education is vested in several different agencies; that the consolidation of such responsibility in a single agency would promote coordination of vocational and technical education programs and would be beneficial to the overall program for vocational and technical education in the state; that this Act is designed to accomplish this purpose and that it is essential to an orderly transition and consolidation of such programs and the administration thereof, that this Act become effective on July 1, 1981; that unless an emergency is declared, an extension of the 1981 regular session of the General Assembly could delay the effective date of this Act beyond July 1, 1981. Therefore, an emergency is hereby declared to exist and this Act being

necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1983, No. 929, § 37: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1983 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1983 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1983."

Acts 1987, No. 771, § 17: Apr. 7, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to clarify the laws related to vocational and technical education. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 773, § 14: Mar. 26, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the reconstructing of the delivery system of adult education and vocational education in this state is necessary to provide quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education

to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business, industry, labor and agriculture to provide every citizen with an opportunity to participate in vocational-technical training and associate degree programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be implemented and comprehensive planning can begin. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1244, § 43: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so

needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1246, § 17: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval."

Acts 1995, No. 297, § 9: Feb. 13, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the immediate effectiveness of this act is essential to the operation of the Department of Education. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

25-6-101. Purpose.

It is intended that all authority and responsibility of the State Board of Education be administered through the Department of Education under the direction and supervision of the Director of the Department of Education.

History. Acts 1981, No. 64, § 1; A.S.A. 1947, § 5-910.1; Acts 1987, No. 771, § 1; 1991, No. 773, § 6; 1991, No. 1244, § 5; 1995, No. 297, § 4; 1999, No. 1323, § 53.

Amendments. The 1999 amendment rewrote this section.

25-6-102. Organization — Director.

(a) The Department of Education shall consist of:

(1) The State Board of Education;

(2) The Department of Education under the direction and supervision of the Director of the Department of Education; and

(3) Any divisions or subdivisions as presently exist within the Department of Education or as may be created by the State Board of Education or as created by law and placed under the Department of Education.

(b) The State Board of Education shall continue to perform its powers and duties as prescribed by law.

(c)(1) The Director of the Department of Education shall be a member of the Governor's cabinet.

(2) The Director of the Department of Education shall perform all duties and exercise all powers relating to general education as may be granted by law.

History. Acts 1971, No. 38, § 10; 1981, No. 64, § 2; A.S.A. 1947, § 5-910; Acts 1987, No. 771, § 2; Acts 1991, No. 773, § 7; 1995, No. 297, § 5; 1999, No. 1323, § 54.

A.C.R.C. Notes. As enacted, the 1991 amendment in (d) began "as soon after passage of this act as possible." Acts 1991, No. 773 was signed by the Governor on March 26, 1991.

Publisher's Notes. Acts 1971, No. 38, § 10, provided, in part, that the State Department of Education should be restyled the Department of Education.

It also provided that the Department of Education should not include the Surplus Property Program (§ 19-11-601 et seq.), which was transferred to the Department of Finance and Administration by section 5 of the act; the veterans' programs created by Acts 1947, No. 195 (repealed) which were transferred to the Department of Social and Rehabilitative Services (now Department of Human Services) by section 13 of the act; or the Rehabilitation

Services (now the Arkansas Rehabilitation Services of the Department of Workforce Education) and Division of Rehabilitation Services for the Blind (now the Division of State Services for the Blind) as created by Acts 1955, No. 43 and Acts 1965, No. 180, respectively, which were transferred to the Department of Social and Rehabilitative Services by section 12 of the act. The section transferred the Educational Television Commission (§ 6-3-101 et seq.), the State Library Commission (now Arkansas State Library — see § 13-2-203 et seq.), the Arkansas School for the Blind (§ 6-43-201 et seq.) and the Arkansas School for the Deaf (§ 6-43-301 et seq.) into the Department of Education.

Acts 1991, No. 773, § 7, provided, in part that the members' terms of office will be decided by lot with no more than (1) term expiring in any given year.

Amendments. The 1999 amendment rewrote this section.

25-6-103 — 25-6-106. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207, the amendment to § 25-6-103 by Acts 1999, No. 1318, was superseded by the repeal of this section by Acts 1999, No. 1323.

Publisher's Notes. Former §§ 25-6-103 — 25-6-106, concerning the powers and duties of department and State Board of Education, the authority of the Director of Vocational and Technical Education to

enter into contracts, the transfer of powers to the Economic Development Commission and Department of Economic Development, and adult education funds, were repealed by Acts 1999, No. 1323, § 55. The sections were derived from the following sources:

25-6-103. Acts 1981, No. 64, § 3; A.S.A.

1947, § 5-910.3; Acts 1987, No. 771, § 3; 1999, No. 1318, § 7.

25-6-104. Acts 1983, No. 929, § 24; A.S.A. 1947, § 5-910.2; Acts 1987, No. 771, § 15.

25-6-105. Acts 1991, No. 1244, § 30; 1997, No. 540, § 48.

25-6-106. Acts 1991, No. 1246, § 3.

SUBCHAPTER 2 — DIVISION OF REHABILITATION SERVICES

SECTION.

25-6-201 — 25-6-205. [Repealed.]

25-6-201 — 25-6-205. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1999, No. 1323, § 56. The subchapter was derived from the following sources:

25-6-201. Acts 1993, No. 574, §§ 1, 2.

25-6-202. Acts 1993, No. 574, §§ 3, 6.

25-6-203. Acts 1993, No. 574, § 5.

25-6-204. Acts 1993, No. 574, § 7.

25-6-205. Acts 1993, No. 574, § 9.

For present law, see § 25-30-201 et seq.

SUBCHAPTER 3 — WORKFORCE EDUCATION

SECTION.

25-6-301 — 25-6-308. [Repealed.]

25-6-301 — 25-6-308. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1999, No. 1323, § 57. The subchapter was derived from the following sources:

25-6-301. Acts 1997, No. 803, § 1.

25-6-302. Acts 1997, No. 803, § 2.

25-6-303. Acts 1997, No. 803, § 3.

25-6-304. Acts 1997, No. 803, § 4.

25-6-305. Acts 1997, No. 803, § 5.

25-6-306. Acts 1997, No. 803, § 6.

25-6-307. Acts 1997, No. 803, § 7.

25-6-308. Acts 1997, No. 803, § 8.

For present law, see § 25-30-101 et seq.

CHAPTER 7

DEPARTMENT OF HIGHER EDUCATION

SECTION.

25-7-101. Creation — Director — Organization — Personnel.

25-7-102. Center for Workforce Excellence.

SECTION.

25-7-103. [Repealed.]

Preambles. Identical Acts 1995, Nos. 198 and 355 contained a preamble which read: "Whereas, the Governor of the State of Arkansas, pursuant to the applicable provision of the federal Higher Education Act of 1965, as amended by the Higher Education Act Amendments of 1992, has

designated the Arkansas Department of Higher Education to be the State Postsecondary Review Entity for Arkansas for the purpose of participating in the program established by the Higher Education Act Amendments of 1992; and

"Whereas, the Arkansas Department of

Higher Education, created by Act 38 of 1971, consists of the State Board of Higher Education and any other divisions which may be created by law and placed under the Department of Higher Education; and

"Whereas, the purpose of this Act is to establish the State Board of Higher Education as the body having final administrative authority, pursuant to Act 38 of 1971, over the State Postsecondary Review Program in Arkansas, and to confirm this designation and confer additional authority and powers upon the State Board of Higher Education as may be necessary.

"Now therefore, be it enacted by the General Assembly of the state of Arkansas:"

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1992 (1st Ex. Sess.), No. 52, § 10: Mar. 17, 1992. Emergency clause provided: "It is hereby found and determined

by the Seventy-Eighth General Assembly, meeting in Extraordinary Session, that in order to attract high technology industry to this state that a highly trained workforce is essential; and that the provisions of this act will provide necessary resources for such workforce. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Identical Acts 1995, Nos. 198 and 355, § 6: Feb. 9, 1995, and Feb. 20, 1995, respectively. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that in order to provide for the continuing eligibility for federal student financial aid of existing postsecondary institutions located in the state and for any postsecondary institution hereafter established, this Act should be given immediate effect. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1114, § 18: May 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act abolishes the State Board of Higher Education and replaces the board with the Arkansas Higher Education Coordinating Board; and that to provide for an efficient transition and to allow the Governor a sufficient time to make appointments, this act shall become effective May 1, 1997. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on May 1, 1997."

25-7-101. Creation — Director — Organization — Personnel.

(a) There is created a Department of Higher Education.

(b) The executive head of the department shall be the Director of the Department of Higher Education. The director shall be appointed by the Arkansas Higher Education Coordinating Board through a search and selection process that includes substantial input, review, and

recommendation from the Presidents Council, subject to confirmation by the Governor and shall serve at the pleasure of the Governor.

(c) The department shall consist of the Arkansas Higher Education Coordinating Board and any other divisions which may be created by law and placed under the department.

(d) The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All of the personnel of the department shall be employed by and serve at the pleasure of the director. Provided, nothing in this section shall be so construed as to reduce any right which an employee shall have under any civil service or merit system.

(e) Each division of the department shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the department as he or she shall deem desirable or necessary for the effective and efficient operation of the department.

(f) The several institutions of higher education in this state shall be requested to cooperate with the department in an effort to coordinate their programs.

History. Acts 1971, No. 38, § 9; A.S.A. 1947, § 5-909; Acts 1997, No. 1114, § 14.

Publisher's Notes. Acts 1971, No. 38, § 9, provided, in part, that the former Commission on Coordination of Higher Educational Finance would be restyled as the State Board for Higher Education and

that board transferred into the Department of Higher Education by a type 4 transfer.

Amendments. The 1997 amendment rewrote (b); and substituted "Arkansas Higher Education Coordinating Board" for "State Board of Higher Education" in (c).

25-7-102. Center for Workforce Excellence.

(a) For the purpose of this section, "center" means the Center for Workforce Excellence.

(b)(1) There is created the Center for Workforce Excellence which shall conduct a pilot project to assist industrial development through the coordination of training programs and services.

(2) The pilot project shall be a cooperative effort among Ouachita Technical College, Malvern High School, the Grande Nutrino Project Consortium, private industry, and other appropriate groups.

(3) Local industrial groups, local governmental units, and private enterprise should provide much of the financial support needed for the pilot project. Such support should include financial support for items such as office space, expenses, and utilities.

(4) The Ouachita Technical College Board shall establish guidelines governing the operation of the center.

(c)(1) The goals of the center shall be to:

(A) Facilitate the development of students and workers, members of the "learning force" within Arkansas communities and companies, with a focus on workers' skills and workplace tools of the future, particularly high-level technical training and education; and

(B) Foster skills, knowledge, and understanding relevant to real-world jobs, careers, and lifestyles through the economic competitiveness of students, workers, communities, companies, and associated groups in a global political community.

(2) The center shall develop a strategic management plan to include initial industry services training, with a survey of existing facilities, opportunities for training within the potential project area, and development of a campaign plan to overcome training deficiencies in the areas through reliance on existing resources through the cooperation and development of new training capability through innovative low cost means.

(3) The center shall assist private industry in determining what training services and programs are available, the steps necessary to provide the training services and programs needed by the industry, and how long it would take to develop the needed training services and programs.

(d)(1) The Ouachita Technical College Board shall establish a local advisory committee to provide guidance to the center in implementing the pilot project. The local advisory committee shall include representatives of Ouachita Technical College, Malvern High School, the Grande Nutrino Project Consortium, and private industry. The board may include representatives of other appropriate groups and organizations.

(2) The purpose of the local advisory committee shall be to assist the center in determining the proper focus for industrial development.

(3) The local advisory committee shall make recommendations concerning:

(A) "Soft skills", interpersonal relationships such as discipline, self-reliance, and an ability to communicate properly;

(B) "Hard skills", such as skills required of workers by technical training;

(C) Apprenticeship and internship programs for students and potential workers; and

(D) Other issues concerning the training and development of students and workers.

History. Acts 1992 (1st Ex. Sess.), No. 52, §§ 1-6; 1993, No. 665, § 1.

Cross References. Industrial devel-

opment of business and industry generally, § 15-4-101 et seq.

25-7-103. [Repealed.]

Publisher's Notes. This section, concerning a postsecondary review entity, was repealed by Acts 1999, No. 478, § 10.

The section was derived from Acts 1995, No. 198, §§ 1, 2; 1995, No. 355, §§ 1, 2.

CHAPTER 8

DEPARTMENT OF FINANCE AND ADMINISTRATION

SECTION.

- 25-8-101. Creation — Director — Organization — Personnel.
 25-8-102. Authority of director generally.
 25-8-103. Office of Personnel Management — Personnel Director.
 25-8-104. Director of Division of Budgets and Accounting.

SECTION.

- 25-8-105. Federal aid programs.
 25-8-106. Marketing and redistribution of state personal property.
 25-8-107. Office of Child Support Enforcement.
 25-8-108. Contract labor.
 25-8-109. Loans to marketing and redistribution.

A.C.R.C. Notes. Acts 2001, No. 1518, § 1, provided: "(a) The Department of Finance and Administration shall promulgate regulations establishing criteria and procedures for evaluating state and federal grants administered by the various state agencies.

"(b) The regulations shall be completed and reported to the Legislative Council and the Governor no later than January 1, 2002."

Cross References. Fiscal duties of Department of Finance and Administration, § 19-1-201 et seq.

Penalty for "hot checks" paid to Department of Finance and Administration, § 19-2-203.

Effective Dates. Acts 1967, No. 466, § 6: Mar. 31, 1967. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that planning must be made for the Personnel Division created herein and for the continuation of the studies authorized herein and an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

Acts 1967, No. 468, § 12: Mar. 31, 1967. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that several months preparation will be required for the transitions which are authorized herein on July 1, 1967, and in order to make these preparations this Act should take effect and be in force from the date of its approval. Therefore, an emergency is declared to exist, and this Act

being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

Acts 1968 (1st Ex. Sess.), No. 44, § 10: Feb. 21, 1968. Emergency clause provided: "It has been found and determined by the First Extraordinary Session of the Sixty-Sixth General Assembly that efficiency and economy are desirable traits in state government; that improved marketing and redistribution of property would provide better utilization of the state's assets; and that if certain economies and efficiency are going to be undertaken in state government, then the immediate passage of this act is necessary. Now, therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall take effect and be in full force from and after its passage and approval."

Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more re-

sponsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1972 (Ex. Sess.), No. 50, § 4: Feb. 18, 1972. Emergency clause provided: "It has been found and determined by the Sixty-Eighth General Assembly meeting in Extraordinary Session that Act 44 of 1968 should include such language that would enable the county, municipal, or other local government units to utilize the services of the Marketing and Redistribution Section of the Department of Finance and Administration. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after the date of its passage and approval."

Acts 1973, No. 806, § 8: July 1, 1973. Emergency clause provided: "It is hereby found and determined by the Sixty-Ninth General Assembly that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two-year period; that the effectiveness of this act on July 1, 1973 is essential to the operation of the agency for which the appropriations in this act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1973 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1973."

Acts 1973, No. 876, § 35: July 1, 1973. Emergency clause provided: "It being determined by the General Assembly that the proper and effective management and control of State finances requires that the provisions of this Act being necessary for the preservation of the public peace, health, and safety, an emergency is hereby declared to exist and this act shall be in full force and effect from and after July 1, 1973."

Acts 1977, No. 436, § 2: July 1, 1977. Emergency clause provided: "It being de-

termined by the General Assembly that the proper and effective management and control of State finances requires that the provisions of this Act be implemented at the commencement of the next biennium and this Act is necessary for the proper management of the financial affairs of the State, therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1993, No. 931, § 34 and No. 957, § 14: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 226, § 33: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1999, No. 1428, § 33: July 1, 1999.

Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the

effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

25-8-101. Creation — Director — Organization — Personnel.

(a) There is created a Department of Finance and Administration.

(b) The executive head of the department shall be the Director of the Department of Finance and Administration. The director shall be appointed by the Governor and shall serve at the pleasure of the Governor.

(c)(1) The Department of Finance and Administration shall consist of the divisions which existed as of July 1, 1971, within the State Administration Department and the Department of Revenues and any other divisions which may be created by law and placed under the Department of Finance and Administration.

(2) There is created a Racing Division and an Alcoholic Beverage Control Division within the Department of Finance and Administration.

(d) The Director of the Department of Finance and Administration, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. The director may appoint an Administrative Assistant for Revenue to serve as the director's agent. All other personnel of the Department of Finance and Administration shall be employed by and serve at the pleasure of the Director of the Department of Finance and Administration, provided that nothing in this section shall be so construed as to reduce any right which an employee of the Department of Finance and Administration shall have under any civil service or merit system.

(e) Each division of the Department of Finance and Administration shall be under the direction, control, and supervision of the director of the department. The director may delegate his or her functions, powers, and duties to the various divisions of the Department of Finance and Administration as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

(f) For the purposes of the tax, driver's license, and motor vehicle registration and licensing laws, the term "director" shall mean the Director of the Department of Finance and Administration, the Administrative Assistant for Revenue, or his or her authorized agent. The Administrative Assistant for Revenue shall act as the director's agent and take any and all actions necessary to administer the laws.

History. Acts 1971, No. 38, § 5; A.S.A. 1947, § 5-905; Acts 1993, No. 332, §§ 1, 2.

Publisher's Notes. Acts 1967, No. 468, abolished the Office of State Comptroller and transferred its powers and duties to the State Administration Department. It also transferred the State Purchasing Department into the State Administration Department.

Acts 1969, No. 286 transferred the powers, functions, and duties of the Division of Local Affairs and Audits of the State Administration Department to the Division of Local Affairs and Audits of the Division of Legislative Audit.

Acts 1971, No. 38, § 5, in part, transferred the State Administration Department and the Department of Revenue, by type 2 transfers, to the Department of Finance and Administration. The section also transferred the Surplus Property Program (§ 19-11-601 et seq.) to the Department by a type 2 transfer and located it in the Purchasing Division of the Office of State Purchasing. The section transferred the Arkansas Racing Commission (§ 23-110-201 et seq.), by a type 1 transfer, to the Division of Racing of the Department of Finance and Administration and transferred the Department of Alcoholic Beverage Control, by a type 1 transfer, to the Alcoholic Beverage Control Division of that department.

Acts 1971, No. 38, §§ 5 and 14, as amended by Acts 1973, No. 710, §§ 2 and 3, transferred the Enforcement Division of the Alcoholic Beverage Control Commission to the Department of Public Safety by a type 2 transfer. The Department of Public Safety was abolished by Acts 1981, No. 45, and § 9 of that act transferred the Enforcement Division to the Department

of Finance and Administration where it operates as a separate division known as the Enforcement Division of Alcoholic Beverage Control.

Acts 1977, No. 884, § 4, abolished the Administrative Services Division of the Department of Finance and Administration and transferred all of its powers, duties, equipment, etc. respecting electronic data processing services and a central telephone system for state agencies to the Department of Information Systems (§ 25-4-101 et seq.). All duties of the Administrative Services Division not transferred to the Department of Computer Services were to be reassigned to other divisions by the Director of the Department of Finance and Administration.

Acts 1981, No. 764, § 4, transferred to the Department of Finance and Administration the powers and duties of the Department of Local Services (abolished) with respect to the Intergovernmental Personnel Act program, the HUD 701 program, and the revenue-sharing assistance program, and with respect to various state grant programs including, but not limited to, planning and development grants, state community grants, and the Ozark Regional Commission — State Contribution.

Acts 1987, No. 68, § 1, provided that the Surplus Property Program, § 19-11-601 et seq., which was transferred by a Type 2 transfer to the Department of Finance and Administration, was transferred by a Type 2 transfer to the Vocational and Technical Education Division of the State Department of Education.

Cross References. Arkansas Information Systems Act, § 25-4-101 et seq.

25-8-102. Authority of director generally.

(a) The Director of the Department of Finance and Administration, with the approval of the Governor, may adopt reasonable rules, regulations, and procedures, not inconsistent with the law, which he or she deems desirable for the effective administration of the Department of Finance and Administration and any of its divisions.

(b) The director shall have authority to install any recordkeeping and other procedures in his or her office and in other offices and departments of the state which he or she shall deem necessary or advisable to carry out his or her functions and duties. However, nothing in this section shall be construed to grant the director any authority to establish recordkeeping or other procedures, or rules and regulations

with respect to the elected constitutional officers of the state, the General Assembly and its committees, or other agencies who are exempt from all or a part of the procedures set forth in the Arkansas Procurement Law, § 19-11-201 et seq., and the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

(c) The director may from time to time establish within the department any sections or other administrative units which he or she may deem desirable for the effective operation of the department and any division thereof, provided that the duties and functions of the sections or administrative units are within the purpose authorized by law.

(d) The director may appoint a designee to appear on behalf of the director at meetings of any board or commission of which the director is a member in his or her capacity as Director of the Department of Finance and Administration or Chief Fiscal Officer of the State. The designee may vote on behalf of the director.

History. Acts 1967, No. 468, § 8; A.S.A. 1947, § 5-808; Acts 2001, No. 243, § 1.

Amendments. The 2001 amendment added (d).

25-8-103. Office of Personnel Management — Personnel Director.

(a) There is created the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration.

(b) The Director of the Office of Personnel Management shall be known as the Personnel Director, and he or she shall be employed by the Director of the Department of Finance and Administration with the advice and consent of the Governor. The Office of Personnel Management shall be under the overall direction, control, and supervision of the Director of the Department of Finance and Administration.

History. Acts 1967, No. 466, § 1; A.S.A. 1947, § 5-810.

25-8-104. Director of Division of Budgets and Accounting.

The Director of the Division of Budgets and Accounting shall be the Deputy Director of the Department of Finance and Administration. He or she shall have all functions, powers, and duties granted under § 19-1-203 and all other laws pertaining to his or her office and any other functions, powers, and duties which are assigned and delegated to him or her by the Director of the Department of Finance and Administration.

History. Acts 1967, No. 468, § 4; A.S.A. 1947, § 5-804.

25-8-105. Federal aid programs.

(a) The Department of Finance and Administration shall have and establish the functions, duties, powers, and responsibilities for the coordination of all federal aid programs within the state and shall provide assistance to any department seeking federal aid.

(b) All applications for federal grants submitted by state agencies shall be processed through the department. However, the Director of the Department of Finance and Administration shall have the discretion to authorize state agencies to file copies of grant applications with the department as a substitute for the processing requirement.

History. Acts 1971, No. 38, § 5; 1973, No. 710, § 2; A.S.A. 1947, § 5-905.

25-8-106. Marketing and redistribution of state personal property.

(a) The provisions of this section shall be applicable only with respect to personal property and shall not be interpreted to apply or to affect in any way the disposition of surplus real property of the state.

(b)(1) There is created within the Office of State Procurement of the Department of Finance and Administration a Marketing and Redistribution Section for the purpose of promoting and ensuring effective utilization of surplus state property.

(2)(A) All state agencies, boards, commissions, departments, and colleges and universities are required and county, municipal, or other tax-supported institutions are authorized to utilize the services of the Marketing and Redistribution Section, unless specifically exempted in writing by the Director of the Office of State Procurement of the Department of Finance and Administration.

(B)(i) Nothing in this section shall be construed to make it mandatory that county, municipal, or other local government units utilize the services of the Marketing and Redistribution Section.

(ii) Nothing in this section shall be construed to make it mandatory that any agency, department, division, office, board, commission, or institution of this state, including state-supported institutions of higher education, utilize the services of the Marketing and Redistribution Section in the sale of surplus computer equipment and electronics to state agency employees for a price not less than ten percent (10%) above depreciated value.

(3) The Department of Finance and Administration shall maintain adequate and accurate records of the costs for operating the Marketing and Redistribution Section and is authorized to establish fair and reasonable charges for the services of the section. The charges for services shall be deposited in the State Treasury as nonrevenue receipts, there to be credited to the Property Sales Holding Fund for the operation, maintenance, and improvement of the Marketing and Redistribution Section.

(c) The Office of State Procurement may maintain an inventory of furniture, equipment, and other items which shall be made available to state agencies on rental agreements based upon fair and reasonable rental values.

(d) The department is authorized to establish a fair and reasonable fee schedule for redistributing property between state agencies upon their request.

(e) Proceeds from the sale, transfer, or rental of property by the Director of the Office of State Procurement of the Department of Finance and Administration shall be accounted for as follows:

(1) The purchasers, transferees, and lessees of property available for such purposes as are authorized by this section shall transmit to the Office of State Procurement the agreed sale price, service charge, or rental fee;

(2) The Office of State Procurement shall deposit the full amount of proceeds received, as set out above, in the State Treasury in the manner as provided by law;

(3)(A) Proceeds from the sale or transfer of property deposited in the State Treasury shall be classified as nonrevenue receipts and credited to the Property Sales Holding Fund herein created on the books of the Treasurer of State as a trust fund.

(B) Funds deposited in the Property Sales Holding Fund may be expended only by the selling or transferring agency under procedures established by the Chief Fiscal Officer of the State and appropriations provided by the General Assembly.

(C) However, funds deposited in the Property Sales Holding Fund from the sale of property purchased from agency cash funds may be refunded to the agency cash fund from which the original expenditure was made by the issuance of a warrant under procedures established by the Chief Fiscal Officer of the State and the Auditor of State to be payable from appropriations provided by the General Assembly for disposition of the proceeds.

(f) The Director of the Department of Finance and Administration is authorized to promulgate reasonable rules and regulations, not inconsistent with law, for compliance with the provisions of this section, the Arkansas Procurement Law, § 19-11-201 et seq., and the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

History. Acts 1968 (1st Ex. Sess.), No. 44, §§ 1-7; 1972 (Ex. Sess.), No. 50, § 1; 1973, No. 806, §§ 4, 5; 1973, No. 876, § 30; 1977, No. 436, § 1; A.S.A. 1947, §§ 5-812 — 5-818; Acts 2001, No. 589, § 1; 2001, No. 1410, § 13.

Amendments. The 2001 amendment by No. 589 substituted "Procurement" for "Purchasing" in (b)(1), (e)(2), and (f); redesignated the former (b)(2) as the present (b)(2)(A) and (b)(2)(B); substituted the present (b)(2)(A) for the former (b)(2),

which read: "All state agencies, boards, commissions, departments, and county, municipal, or other tax-supported institutions are authorized to utilize the services of the Marketing and Redistribution Section of the Office of State Purchasing of the Department of Finance and Administration"; substituted "Procurement" for "Purchasing of the Department of Finance and Administration" in (c) and (e)(1); substituted "The department" for "The Department of Finance and Administration"

in (d); substituted "the Director...and Administration" for "the State Purchasing Director" in (e); and redesignated the former (e)(3) as (e)(3)(A) through (e)(3)(C).

The 2001 amendment by No. 1410, in

(b)(2), redesignated the former first sentence as present (b)(2)(A) and rewrote; redesignated the former last sentence of (b)(2) as present (b)(2)(B)(i); and added (b)(2)(B)(ii).

CASE NOTES

Cited: *Beverly Enterprises-Arkansas, Inc. v. Arkansas Health Servs. Comm'n*, 308 Ark. 221, 824 S.W.2d 363 (1992).

25-8-107. Office of Child Support Enforcement.

(a) The Child Support Enforcement Unit of the Division of Economic and Medical Services of the Department of Human Services is hereby transferred by a type 2 transfer pursuant to § 25-2-105 to the Revenue Division of the Department of Finance and Administration and shall be known as the Office of Child Support Enforcement.

(b) All powers, duties, functions, records, property, and funds administered or provided by other support divisions within the Department of Human Services shall be transferred to the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration on July 1, 1993.

(c) The Department of Human Services and the Department of Computer Services shall grant access to and provide information determined by the Office of Child Support Enforcement to be necessary to successfully accomplish its mission.

History. Acts 1993, No. 957, §§ 4, 7, 8.

Publisher's Notes. Acts 1993, No. 795, §§ 1-9, provided: "SECTION 1. Effective July 1, 1993, the Child Support Enforcement Unit of the Department of Human Services shall be transferred by a Type 2 transfer to the Department of Finance and Administration Revenue Services Division.

"SECTION 2. All powers, duties, functions, records, property, and funds administered or provided by other support divisions within the Department of Human Services shall be transferred to the Office of Child Support Enforcement of the Department of Finance and Administration Revenue Services Division upon the effective date of the transfer.

"SECTION 3. The Department of Human Services and the Department of Computer Services shall grant access to and provide information as determined by the Office of Child Support Enforcement necessary to successfully accomplish their mission.

"SECTION 4. COMPLIANCE WITH

OTHER LAWS. Disbursement of funds authorized by this Act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, and other fiscal control laws of this State, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

"SECTION 5. LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this Act shall be in compliance with the stated reasons for which this Act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the

Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.

“SECTION 6. CODE. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

“SECTION 7. SEVERABILITY. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to

this end the provisions of this Act are declared to be severable.

“SECTION 8. GENERAL REPEALER. All laws and parts of laws in conflict with this Act are hereby repealed.

“SECTION 9. EMERGENCY CLAUSE. It is hereby found and determined by the Seventy-Ninth General Assembly meeting in Regular Session, that the provisions of this Act are of critical importance to preserve the efficient operation of programs that deliver services to the citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

25-8-108. Contract labor.

The Director of the Department of Finance and Administration may authorize use of contract labor in the Revenue Division of the Department of Finance and Administration from January until July of a given year without regard to any limitation of duration or hours.

History. Acts 1993, No. 931, § 28; 1995, No. 226, § 26.

25-8-109. Loans to marketing and redistribution.

In the event the moneys available in the Property Sales Holding Fund are not adequate during any month of each year of the fiscal biennium to meet the payroll commitments of the Marketing and Redistribution Section of the Office of State Procurement of the Department of Finance and Administration for the regular salaries and personal services matching appropriation, the Chief Fiscal Officer of the State is hereby authorized to make loans, from time to time as needed, from the Budget Stabilization Trust Fund to the Property Sales Holding Fund to provide the moneys required to meet the payroll and personal services matching appropriation requirements for any such month. Provided that, if at the end of each fiscal year the Property Sales Holding Fund did not receive sufficient income to repay the entire amount of any such moneys borrowed from the Budget Stabilization Trust Fund for the purposes as authorized herein, the Chief Fiscal Officer of the State is hereby authorized to transfer from the State Central Services Fund such amount as is necessary to reimburse the Budget Stabilization Trust Fund in behalf of loans made to the Property Sales Holding Fund to reimburse the Budget Stabilization Trust Fund for the amount of any such loan remaining unpaid at the end of each fiscal year.

History. Acts 1999, No. 1428, § 24.

Publisher's Notes. Acts 2001, No. 120, § 25 provided: "In the event the monies available in the Property Sale Holding Fund are not adequate during any month of each year of the fiscal biennium, to meet the payroll commitments of the Department of Finance and Administration - Management Services Division - Marketing and Redistribution, for Regular Salaries and Personal Services Matching, the Chief Fiscal Officer of the State is hereby authorized to make loans, from time to time as needed, from the Budget Stabilization Trust Fund to the Property Sale Holding Fund to provide the monies required to meet the payroll and Personal Services Matching requirements for any such month. Provided that, if, at the end

of each fiscal year, the Property Sale Holding Fund did not receive sufficient income to repay the entire amount of any such monies borrowed from the Budget Stabilization Trust Fund for the purposes, as authorized herein, the Chief Fiscal Officer of the State is hereby authorized to transfer from the State Central Services Fund such amount as is necessary to reimburse the Budget Stabilization Trust Fund in behalf of loans made to the Property Sale Holding Fund to reimburse the Budget Stabilization Trust Fund for the amount of any such loan remaining unpaid at the end of each fiscal year. The provisions of this section shall be in effect only from July 1, 2001 through June 30, 2003."

Acts 2001, No. 120, § 25 did not specifically amend or supersede this section.

CHAPTER 9

DEPARTMENT OF HEALTH

SECTION.

- 25-9-101. Creation — Director — Organization — Personnel.
- 25-9-102. Bureau of Alcohol and Drug Abuse Prevention.
- 25-9-103. Patient care providers — Wages — Required withholding — Fringe benefits.
- 25-9-104. Additional compensation —

SECTION.

- County Health Unit Administrators.
- 25-9-105. Home health on-call and visit pay.
- 25-9-106. Community Alcohol Safety Program.
- 25-9-107. Transfer of personnel pursuant to § 25-9-106.

A.C.R.C. Notes. Acts 1989, No. 175, § 1, provided: "Any employee of the Arkansas Department of Health who was an employee of a county health department or locally funded health office at any time between January 1, 1973, and December 1, 1988, and who was directly supervised by the Arkansas Department of Health during that period of time shall be deemed a State employee for the purpose of leave accrual under the Uniform Attendance and Leave Policy Act, Arkansas Code § 21-4-201 et seq. Such employees shall then be able to earn leave at the rates effective for State employees with similar lengths of service and to accumulate leave up to the maximums permitted by the law."

Cross References. State health planning and development, § 20-8-101 et seq.

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be

completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health,

and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 890, § 8: April 5, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly meeting in Regular Session, that the provisions of this Act are of critical importance to preserve the efficient operation of programs that deliver services for the prevention and treatment of alcohol and drug abuse in Arkansas. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 768, § 54: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.”

Acts 1999, No. 1219, § 9: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the functions performed by the Arkansas State Highway and Transportation Department relating to the state alcohol program can more properly be accomplished by the Department of Health; and that such functions should be transferred at the beginning of the next fiscal year. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1999.”

Acts 1999, No. 1426, § 61: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999.”

25-9-101. Creation — Director — Organization — Personnel.

(a) There is created a Department of Health. The executive head of the Department of Health shall be the Director of the Department of Health.

(b) The department shall consist of the divisions which existed as of July 1, 1971, within the State Board of Health, created by § 20-7-101 et seq., and any other divisions which may be created by law and placed under the department.

(c) The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All other personnel of the department shall be employed by and shall serve at the pleasure of the director. Provided, nothing in this section shall be so construed as to

reduce any right which an employee of the department shall have under any civil service or merit system.

(d) Each division of the department shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

(e)(1) The department shall maintain an Office of Oral Health.

(2) The Director of the Office of Oral Health shall be an experienced public health dentist licensed to practice under the Arkansas Dental Practice Act, § 17-82-101 et seq.

(3) The Director of the Office of Oral Health shall:

(A) Plan, direct, and coordinate all dental public health programs with other local, state, and national health programs;

(B) Serve as the department's chief advisor on matters involving oral health; and

(C) Plan, implement, and evaluate all oral health programs within the department.

History. Acts 1971, No. 38, § 11; A.S.A. 1947, § 5-911; Acts 2001, No. 785, § 1.

Publisher's Notes. Acts 1971, No. 38, § 11, in part, transferred the State Board of Health (§ 20-7-101 et seq.) to the Department of Health by a type 4 transfer. It also transferred the State Cancer Commission (§ 20-15-201 et seq.) and the Ar-

kansas Tuberculosis Sanatorium at Booneville (§ 20-11-201 et seq.) to the Department of Health by type 3 and 1 transfers, respectively. For the selection of the Director of the Department of Health, see § 20-7-103.

Amendments. The 2001 amendment added (e).

25-9-102. Bureau of Alcohol and Drug Abuse Prevention.

(a) The Division of Alcohol and Drug Abuse Prevention of the Department of Human Services is transferred by a type 1 transfer, as provided for in § 25-2-104, to the Department of Health and shall be known as the Bureau of Alcohol and Drug Abuse Prevention.

(b) Any and all other powers, duties, functions, records, property, and funds administered or provided by other support divisions within the Department of Human Services for the Division of Alcohol and Drug Abuse Prevention shall be transferred to the Bureau of Alcohol and Drug Abuse Prevention of the Department of Health.

History. Acts 1993, No. 890, §§ 1, 2.

A.C.R.C. Notes. As originally enacted

by Acts 1993, No. 890, § 1, subsection (a) began "Effective July 1, 1993."

25-9-103. Patient care providers — Wages — Required withholding — Fringe benefits.

(a) The Department of Health is authorized to pay wages and required state withholding, federal withholding, required matching, and other fringe benefits for patient care part-time intermittent contractual personnel who must be employed in order to provide services in the home.

(b) These payments will be made from the appropriation for professional fees and services.

History. Acts 1997, No. 768, § 32; 1999, No. 1426, § 31.

Amendments. The 1999 amendment made no changes to this section.

25-9-104. Additional compensation — County Health Unit Administrators.

(a) Any employee serving in the capacity of County Health Unit Administrator shall be eligible for up to ten percent (10%) of additional compensation within the grade during the period of time in which the employee occupies the position.

(b) Employees on the highest level of their grade shall be eligible for additional compensation in an amount not to exceed five and one-half percent (5.5%) of their current salary upon assuming responsibility, and this amount shall not be construed as exceeding the line item maximum for the grade for that position.

(c)(1) The Department of Health shall certify to the Chief Fiscal Officer of the State the assignment of duties of each employee in this position, the length of the assignment, and the location and reason for the assignment.

(2) The Chief Fiscal Officer of the State shall approve the request prior to the awarding of additional compensation.

History. Acts 1997, No. 768, § 34.

25-9-105. Home health on-call and visit pay.

(a) The Department of Health is hereby authorized to compensate the following personnel responsible for providing in-home health care as necessary to maintain continuity of care outside routine working hours on weekdays and on weekends or holidays:

- (1) R055 Hlth Public Hlth Nursing Prog. Coord;
- (2) L082 Nursing Services Specialist;
- (3) L033 Home Health Nurse I;
- (4) L034 Home Health Nurse II;
- (5) L138 Speech Pathologist I;
- (6) L140 Speech Pathologist II;
- (7) L142 Speech Pathologist Supervisor;
- (8) L102 Physical Therapist I;
- (9) L104 Physical Therapist II;
- (10) L106 Physical Therapy Supervisor;
- (11) M086 Social Worker I;
- (12) M088 Social Worker II;
- (13) L086 Occupational Therapist I;
- (14) L088 Occupational Therapist II;
- (15) L090 Occupational Therapist Supervisor;
- (16) R056 Hlth. Pub. Hlth. Nursing Program Administrator;
- (17) L047 LPN I;

- (18) L049 LPN II;
- (19) L154 Public Hlth. Nurse I;
- (20) L156 Public Hlth. Nurse II;
- (21) L021 PH Technician II; and
- (22) L155 PH Technician I.

(b)(1) Visit pay shall not exceed forty-five dollars (\$45) per visit.

(2) Employees requested to be on-call or on standby, or both, for visiting on nights, weekends or holidays, or both, will be eligible to receive on-call pay not to exceed thirty dollars (\$30) per day.

(3)(A) Provided, however, no compensation shall be paid to any employees required to be on-call or on standby, or both, who fail to respond after the second notification that their services are needed.

(B) In the event of equipment or paging device malfunction, the penalty shall not apply.

(4) All compensated services shall be provided as directed by the department.

(5)(A) All visit and on-call pay shall be paid from funds from in-home services extra salaries as appropriated in this act.

(B) The compensation for visit and on-call pay when added to the employee's regular salary and benefits shall not be construed as exceeding the maximum annual salary as described in the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

History. Acts 1997, No. 768, § 41.

25-9-106. Community Alcohol Safety Program.

(a) On or after July 1, 1999, all powers, duties, functions, records, and funds administered or provided by other support divisions within the Arkansas State Highway and Transportation Department for the Traffic Safety Section of the Programs and Contracts Division regarding or relating to the state alcohol program, commonly known as the Community Alcohol Safety Program, administered by the department pursuant to the laws of this state and transferred to that department by Acts 1989, 1st Ex. Sess., No. 153, shall be transferred by a type 2 transfer, as defined in § 25-2-105, to the Bureau of Alcohol and Drug Abuse Prevention of the Department of Health.

(b) For the purposes of this section the term "funds" shall mean all funds derived from the State Administration of Justice Fund pursuant to § 16-10-310 for usage by the state alcohol program, education fees paid by offenders of the Omnibus DWI Act, § 5-65-101 et seq., and the appropriation for community alcohol safety.

History. Acts 1999, No. 1219, § 1; 1999, No. 1426, § 50.

Publisher's Notes. Acts 1999, No. 1219, § 4 provided: "All outstanding encumbrances of the Community Alcohol

Safety Program as of June 30, 1999, shall be paid by the Arkansas Department of Health with Community Alcohol Safety Program funds."

25-9-107. Transfer of personnel pursuant to § 25-9-106.

All personnel transferred from the Arkansas State Highway and Transportation Department pursuant to § 25-9-106 shall be eligible for employment under this section in a comparable position with the Bureau of Alcohol and Drug Abuse Prevention of the Department of Health.

History. Acts 1999, No. 1219, § 5.

CHAPTER 10**DEPARTMENT OF HUMAN SERVICES****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. DIVISION OF STATE SERVICES FOR THE BLIND.
3. DIVISION OF YOUTH SERVICES. [REPEALED.]
4. DEPARTMENT OF HUMAN SERVICES STATE INSTITUTIONAL SYSTEM.

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.**

- 25-10-101. Creation — Appointment of director.
- 25-10-102. Organization generally.
- 25-10-103. [Repealed.]
- 25-10-104. Developmental disabilities services — Board of Developmental Disabilities Services.
- 25-10-105. [Repealed.]
- 25-10-106. Division heads and other personnel.
- 25-10-107. Reports by divisions.
- 25-10-108. Coordination of programs, procedures, etc., of department and institutional boards.
- 25-10-109. Institutional services generally — Development of admission policies, etc.
- 25-10-110. Institutional services generally — Charges.
- 25-10-111. Budgeting generally.
- 25-10-112. [Repealed.]
- 25-10-113. Disposition of direct services funds.
- 25-10-114. Developmental disabilities — Special authorization — Cash funds.
- 25-10-115. County offices of human services.
- 25-10-116. Advisory committees generally.
- 25-10-117. Community Services Advisory Council.

SECTION.

- 25-10-118. Child support enforcement program — Reports.
- 25-10-119. Certification of vouchers.
- 25-10-120. Research and Training Institute.
- 25-10-121. Proceeds from the sale of land — Deposit in special trust fund.
- 25-10-122. Office of Minority Mental Health — Creation.
- 25-10-123. Programs and policies — Development.
- 25-10-124. Administration of state or federal funds.
- 25-10-125. [Repealed.]
- 25-10-126. Grants-in-aid — Conditions for receiving funds.
- 25-10-127. Advance disbursements.
- 25-10-128. Division of Volunteerism.
- 25-10-129. Department of Human Services authorized to issue rules to assure compliance with federal statutes, rules, and regulations.
- 25-10-130. Employee assistance programs — Prohibition of agreement for services.
- 25-10-131. Match transfer.
- 25-10-132. Medical services and county operations — Use of local funds.
- 25-10-133. Mental health services — Transfer provision.

SECTION.

- 25-10-134. Community-based residential programs — Regulations.
 25-10-135. Youth services.
 25-10-136. Private service contract notice required.
 25-10-137. Private service contract performance evaluation requirement.

SECTION.

- 25-10-138. Education requirements for certain Division of Youth Services employees.
 25-10-139. Training requirements for certain Division of Youth Services employees.

A.C.R.C. Notes. Acts 1995, No. 1162, § 3 provided: "All powers vested in the State Hospital Board and Arkansas Youth Services Board are hereby transferred by type one transfer to the DHS State Institutional System Board, and any reference to the State Hospital Board or the Arkansas Youth Services Board contained in the Arkansas Code of 1987 Annotated, shall be deemed to refer to the DHS State Institutional System Board."

Publisher's Notes. Acts 1992 (1st Ex. Sess.), No. 1, §§ 1-5 and 7-14, provided: "SECTION 1. (a) The Arkansas Child Welfare Reform Document prepared by the Department of Human Services and dated February 24, 1992 is hereby adopted as the requirements to be met by the Department of Human Services and the Division of Children and Family Services in their operation of the Child Welfare System in Arkansas. The Department of Human Services shall file the Arkansas Child Welfare Reform Document with the Legislative Council.

"(b) The Department of Human Services shall, from time to time, certify to the Chief Fiscal Officer of the State the amount of supplemental state funds necessary to meet the requirements of the Arkansas Child Welfare Reform Document. For the fiscal year ending June 30, 1992, the maximum amount of supplemental state funds that shall be made available shall be one million four hundred forty three thousand nine hundred eleven dollars (\$1,443,911) and for the fiscal year ending June 30, 1993 the maximum amount shall be thirteen million nine hundred fifty two thousand four hundred fifty six dollars (\$13,952,456). Upon receiving such certification from the Department of Human Services, the Chief Fiscal Officer of the State shall determine and certify to the State Treasurer that the proposed expenditures will be necessary

for compliance with the Arkansas Child Welfare Reform Document and the State Treasurer shall transfer such amount from the General Revenue Fund Account of the State Apportionment Fund to the Children and Family Services Fund Account of the Department of Human Services Fund and to other funds and fund accounts as may be required to meet the requirements of the Arkansas Child Welfare Reform Document. Provided, however, the State Treasurer shall make no such transfers after June 30, 1992 unless she receives certification from the Governor that an order has been issued closing the case of *Angela R., et al v. Bill Clinton, et al*, subject only to being reopened by either party to determine compliance or noncompliance with the Arkansas Child Welfare Reform Document.

"SECTION 2. The Department of Human Services Division of Children & Family Services is instructed to pursue all available federal matching and other funding for children's services programs. State funds available to this division shall not be reduced as a result of receipt of federal funding in order to maximize all funding for all services.

"All federal funding received as matching for state funds available to the Division's programs for children, as well as any federal funds received from retroactive claims based on prior state expenditures for the Division's programs, shall be expended exclusively on children's services programs. The Division of Children and Family Services shall incrementally maximize funding to the level of 45% federal funds and 55% state funds excluding day care and child nutrition.

"SECTION 3. Both the Legislative Joint Auditing Committee and the Joint Interim Committee on Children and Youth may monitor expenditure of funds transferred under this act and shall report as

necessary to the General Assembly. The Joint Interim Committee on Children and Youth is hereby authorized to enter into professional service contracts with persons with the necessary expertise to assist the committee in its monitoring functions and to utilize the funds which were appropriated in § 4 of Act 1055 of 1991 for such purpose.

"SECTION 4. (a) There is hereby created the Child Welfare Compliance and Oversight Committee to monitor the performance and expenditures of the Department of Human Services to ensure that the Department complies with the Arkansas Child Welfare Reform Document.

"(b) The Committee shall be composed of five members, one to be appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, one to be appointed by the Director of the Department of Human Services, two to be appointed by plaintiffs' counsel in the case of *Angela R., et al v. Bill Clinton, et al*, and the fifth to be appointed jointly by the other four members of the Committee.

"(c) The terms of office of the members of the Committee shall expire on December 31, 1994. If a vacancy occurs, the position shall be filled in the same manner as the initial appointment.

"(d) The Committee shall report at least quarterly to: the Legislative Joint Auditing Committee; the Joint Interim Committee on Children and Youth; the Joint Interim Committee on Public Health, Welfare and Labor; plaintiffs' counsel; defense counsel; the Speaker of the House; the President Pro Tempore of the Senate; and the Governor.

"(e) The Committee shall have the authority, by majority vote of the membership, to determine substantial compliance or noncompliance with the Arkansas Child Welfare Reform Document.

"(f) The Committee shall have the authority to take testimony and evidence. It may also compel the attendance of witnesses and the production of documents by subpoena upon majority vote of the membership. Substantial noncompliance or compliance with the terms of the Arkansas Child Welfare Reform Document, as determined by majority vote of the membership, shall be reported to the Governor. The Committee shall make recommendations to the Governor for corrective action to achieve compliance with the Ar-

kansas Child Welfare Reform Document. Reports of the Committee shall be a matter of public record and made available to the public.

"(g) The Committee may employ staff to the extent that funds and appropriations are available therefor. The Committee is authorized to be reimbursed for actual expenses and per diem at a rate to be determined by the Chief Fiscal Officer of the State.

"SECTION 5. Unless authorized by appropriate legislation of the Arkansas General Assembly, neither the Department of Human Services, the Youth Services Board, nor any other entity shall close the Alexander Youth Services Center before June 30, 1993. The department shall formulate a plan to be presented no later than October 1, 1992 to the Joint Interim Committee on Children and Youth which addresses the issue of the reduction of the population of the Alexander and Pine Bluff Youth Service Centers, removal of those inappropriately placed, length of stay of those appropriately placed, and the establishment of community based intermediate sanctions, including, but not limited to short-term juvenile boot camps.

"SECTION 7. There is hereby created and established on the books of the State Auditor, State Treasurer and Chief Fiscal Officer of the State a fund to be known as the Cities in School Fund, which shall consist of those funds as may be provided by law. Such funds shall be distributed to community-based pilot programs as grants not to exceed twenty five thousand dollars each, to partially defray the cost of employing a coordinator who will be responsible for the coordination of existing state, federal and local programs that are directed toward solving problems of children and their families. The Director of the Department of Human Services, the State Board of Health and its designee, the State Board of Education and its designee and appropriate local officials shall cooperate and coordinate their efforts, including the reassigning of its employees and the redirection of funds, to assist the efforts of the community-based pilot programs directed toward solving problems of children and their families and each shall designate one of their employees located in the grantee's location as being the person responsible for liaison between their employer and the coordinator. The De-

partment of Finance and Administration shall promulgate the appropriate regulations required to implement the Cities and School grant program by May 1, 1992 and shall award all grants on or before July 15, 1992. Such regulations shall include a requirement that the grantee shall submit performance goals that are acceptable to the Department of Finance and Administration and shall propose a system to allow the Department of Finance and Administration to measure the progress of the grantee towards meeting those goals.

"SECTION 8. Upon certification by the Chief Fiscal Officer, from time-to-time to the State Treasurer, the State Treasurer shall transfer such certified amounts, not to exceed in total, the sum of three hundred thousand dollars (\$300,000) during the 1991-93 biennium, from the General Revenue Fund Account of the State Apportionment Fund to the Cities in School Fund for the purpose of providing grants not to exceed twenty five thousand dollars each, to community-based pilot programs directed toward solving problems of children and their families.

"SECTION 9. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized by this Act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, and other fiscal control laws of this State, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

"SECTION 10. LEGISLATIVE INTENT. It is the intent of the General Assembly that funds transferred under the authority of this act shall be disbursed in compliance with the Arkansas Child Welfare Reform Document.

"SECTION 11. CODE. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

"SECTION 12. SEVERABILITY. If any

provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"SECTION 13. GENERAL REPEALER. All laws and parts of laws in conflict with this Act are hereby repealed.

"SECTION 14. EMERGENCY CLAUSE. It is hereby found and determined by the Seventy-Eighth General Assembly meeting in first extraordinary session, that funds provided by the Seventy-Eighth General Assembly for the operations of the Children and Family Services Division of the Department of Human Services are, due to unforeseen circumstances, insufficient to continue to provide essential governmental services to the children of this state; that the provisions of this act will provide the necessary monies for the Division of Children and Family Services to continue such services; and that a delay in the effective date of this Act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval."

Cross References. Abuse of adults, § 5-28-101 et seq.

Human development, § 20-48-101 et seq.

Title XX Social Security funds, § 19-7-701 et seq.

Youth services, § 9-28-201 et seq.

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various depart-

ments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 340, § 5: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the provisions of this Act are essential to the operation of the institutions named herein. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1977, No. 787, § 16: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1977 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1977 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977."

Acts 1981, No. 764, § 13: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly that various programs now administered by the Department of Local Services could more appropriately be administered by other existing agencies which administer similar and related programs; that this Act is designed to accomplish this purpose and in order to assure an orderly transition and consolidation of such programs it is essential that this Act become effective on July 1, 1981; that the Constitution of the State of Arkansas prohibits the appropri-

ation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981, is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981, could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1983, No. 307, § 11: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1983 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1983 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 348, § 16: July 1, 1985.

Acts 1985, No. 772, § 19: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the

public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1987, No. 961, § 25: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1987 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1987 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989 (1st Ex. Sess.), No. 44, § 18: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1989 (1st Ex. Sess.), No. 68, § 33: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an

extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 1082, § 28: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 1085, § 35: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 1239, § 125: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Sev-

enty-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, Section 119 shall be in full force and effect from and after the date of passage and approval and the remainder of the Act shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 1198, § 110: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety; Section 99 shall be in full force and effect from and after the date of passage and approval and the remainder of the Act shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 324, § 9: Mar. 3, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint

Interim Committee on State Agencies and Governmental Affairs and in its place established the House Interim Committee and Senate Interim Committee on State Agencies and Governmental Affairs; that various sections of the Arkansas Code refer to the Joint Interim Committee on State Agencies and Governmental Affairs and should be corrected to refer to the House and Senate Interim Committees on State Agencies and Governmental Affairs; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1360, § 132: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, Section 115 shall be in full force and effect from and after the date of passage and approval and the remainder of the Act shall be in full force and effect from and after July 1, 1997."

25-10-101. Creation — Appointment of director.

(a) There is created a Department of Human Services.

(b) The executive head of the department shall be the Director of the Department of Human Services. The director shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure of the Governor.

History. Acts 1971, No. 38, § 12; A.S.A. 1947, § 5-912.

Publisher's Notes. Acts 1971, No. 38, § 12, which enacted this section, created the Department of Social and Rehabilitative Services and transferred the following agencies into that department by type 1 transfers: the State Hospitals and the State Hospital Board (§ 20-46-201 et seq. (repealed)); the Arkansas Children's Colony (now human development centers — see § 20-48-401 et seq.); the Arkansas Department of Mental Retardation and the Arkansas Board of Mental Retardation (now the Division and Board of Developmental Disabilities Services — see § 20-48-201 et seq.); the Arkansas Juvenile Training School Department, Arkansas Juvenile School Department, and Arkansas Juvenile Training School Board (now the Office and Board of Youth Services — see § 9-28-201 et seq.); and the Workers' Compensation Commission (§ 11-9-201 et seq.). The following agencies were transferred to the department by type 2 transfers: the State Department of Public Welfare (functions now performed by various divisions); the Rehabilitation Service (now Arkansas Rehabilitation Services of the Department of Workforce Education) and Rehabilitation Services for the Blind (now Division of State Services for the Blind — see § 25-10-201 et seq.); and the Arkansas Commission on Alcoholism (now Bureau of Alcohol and Drug Abuse Prevention of the Department of Health — see A.C.R.C. Notes to § 20-64-601).

Acts 1973, No. 325, § 2, provided that the Workers' Compensation Commission was detached from the department and would continue to operate as if it had never been transferred to the department.

Acts 1975, Nos. 393 and 843 established an Office for the Blind and Visually Impaired within the Department of Social and Rehabilitative Services. This office was subsequently transferred to the Division of State Services for the Blind within the Department of Human Services by Acts 1983, No. 481, § 5.

Acts 1977, No. 383, § 2, renamed the Department of Social and Rehabilitative Services as the Department of Human Services.

Acts 1981, No. 764, § 2, and Acts 1981, No. 782, § 1, transferred the Division of Community Services of the Department of Local Services (abolished) and its powers and duties relative to various programs including, but not limited to, crisis intervention, and weatherization, Title IV — CETA, Title XX, anti-recession grants, and war on poverty grants, by a type 2 transfer, to the Department of Human Services.

Acts 1993, No. 574, § 1, transferred the Division of Rehabilitation Services of the Department of Human Services to the Division of Vocational and Technical Education of the Department of Education and renamed the Division of Rehabilitation Services as the Arkansas Rehabilitation Services.

25-10-102. Organization generally.

(a) The Department of Human Services shall consist of and be operated under an integrated service system consisting of the following eleven (11) divisions with responsibility and programs assigned to them as determined by the Director of the Department of Human Services:

- (1) A Division of Aging and Adult Services;
- (2) A Division of Medical Services;
- (3) A Division of Mental Health Services, which shall include both community mental health centers and state hospitals;

- (4) A Division of Developmental Disabilities Services, which shall include both community programs and human development centers;
- (5) A Division of County Operations;
- (6) A Division of Administrative Services;
- (7) A Division of Youth Services, which shall include serious offender and community-based programs and the youth service centers;
- (8) A Division of Volunteerism;
- (9) A Division of State Services for the Blind;
- (10) A Division of Children and Family Services; and
- (11) A Division of Child Care and Early Childhood Education.

(b)(1)(A) Each division of the Department of Human Services shall be under the direction, control, and supervision of the director.

(B) The director from time to time may transfer or assign existing duties or new programs or duties of the department to offices, sections, or units as he or she deems necessary for the efficient and necessary operation of the department.

(C) Prior to implementation of any reorganization, the director shall obtain the advice of the House and Senate Interim Committees on State Agencies and Governmental Affairs.

(2)(A) However, the state institutions and the operation of state institutional programs under the jurisdiction of the Board of Developmental Disabilities Services and the Department of Human Services State Institutional System Board, as provided by law, shall be under the control of their respective boards.

(B) The boards shall perform their respective functions and duties under the general guidelines and standards promulgated by the director.

(3) The Division of State Services for the Blind and the Board of the Division of State Services for the Blind shall continue to function within the Department of Human Services with the powers prescribed in § 25-10-201 et seq.

History. Acts 1971, No. 38, § 12; 1985, No. 348, § 1; A.S.A. 1947, §§ 5-912, 5-912b; Acts 1989, No. 60, § 1; 1995, No. 164, § 1; 1997, No. 324, § 3; 2001, No. 1213, § 1; 2001, No. 1553, § 56.

A.C.R.C. Notes. Acts 1985, No. 348, § 1, provided, in part, that all divisions, offices, sections, bureaus, and units, all boards, other than the State Hospital Board, the Board of Developmental Disabilities Services, the Arkansas Youth Services Board, the Division of State Services for the Blind, the Board of the Division of State Services for the Blind, and all other boards and programs specifically continued under the act which existed within the Department of Human Services on July 1, 1985, were abolished and their powers and duties transferred to the nine (9) divisions established by the act as

determined by the Director of the Department of Human Services with the advice of the Joint Interim Committee on State Agencies and Governmental Affairs.

The section further provided that the Division of State Services for the Blind and the Board of the Division of State Services for the Blind (§ 25-10-201 et seq.) would continue to function within the Department of Human Services with the same powers prescribed in § 25-10-201 et seq. but that, for organizational purposes, they should be assigned to divisions or offices of the department as determined by the director. The Office on Alcohol and Drug Abuse Prevention and the Arkansas Alcohol and Drug Abuse Authority would continue to function within the department as outlined in § 20-64-601 et seq. The Long-Term Care Facility Advi-

sory Board (§ 20-10-301), the Office of Long-Term Care (§ 20-10-101 et seq.), and the Child Care Facility Review Board (§ 20-78-201 et seq.), and their powers and duties, would continue and would be assigned to divisions, offices, etc., of the department as determined by the director. The Advisory Committee on Child Placement was continued and the powers and duties of the Commissioner of the Division of Social Services under § 9-28-401 et seq. were to be performed by the divisions, offices, etc., of the department as determined by the director.

Acts 1985, No. 348, § 12, provided, in part, that if, as a result of the reorganization of the Department of Human Services, any of the facilities or any space in any of the facilities belonging to or assigned to the State Hospital Board, the Youth Services Board, the Developmental Disabilities Services Board, or any of the institutions under the management and control of those boards was no longer required to provide services of the institution, the Governor could transfer the facility or space within any facility to the Department of Human Services to be used in performing its functions and duties. Before transferring facilities or space, the Governor must confer with the board having charge over the facility and give the Director of the Department of Human Services an opportunity to outline the department's needs for space and the purpose for which the space would be used if made available to the department.

Acts 1985, No. 772, § 14, provided that in order to accomplish the reorganization, any laws or parts of laws in effect at the time of the passage of the reorganization law which referred to specific divisions or entities in the Department of Human Services would be construed to refer to the successor entity designated by the Director of the Department of Human Services in accordance with the reorganization. It further provided that nothing in the reorganization would affect the orders, rules, regulations, and standards previously promulgated by any department, division, bureau, board, commission, council, or other section of the Department of Human Services, whose functions, powers, and duties were assigned or transferred to a successor entity designated by the director in implementing the reorganization of the department. Those orders, rules, reg-

ulations, and standards would continue with full force and effect until amended or repealed pursuant to law.

Acts 1987, No. 921, § 14, provided that: "It is hereby found and determined by the Seventy-Sixth General Assembly that regional offices tend to create inefficiency in the operation of the programs and services provided by the Department of Human Services. Therefore, no office of the Department of Human Services shall be called a "Regional Office", nor shall any function of any office, other than the Department of Human Services Central Office, include supervision of any district Department of Human Services Office."

Acts 1989, No. 60 created the Division on Alcohol and Drug Abuse Prevention within the Department of Human Services and provided that references to the Office of Alcohol and Drug Abuse Prevention shall be applicable to the Division on Alcohol and Drug Abuse Prevention.

Acts 1993, No. 574, § 1, provided: "Effective July 1, 1993, the Division of Rehabilitation Services of the Department of Human Services is transferred to the Division of Vocational and Technical Education of the Department of Education, and shall be known as the Arkansas Rehabilitation Services. The State Board of Vocational Education shall have the same authority and responsibility with respect to the administration and operation of the Arkansas Rehabilitation Services as it has with respect to the Division of Vocational and Technical Education."

Acts 1993, No. 574, § 2, provided: "The policy and scope of the Arkansas Rehabilitation Services shall be to provide increased employment of individuals with disabilities through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society.

"Pursuant to such policy, rehabilitation services shall be provided to citizens throughout the state and the rehabilitation plan adopted pursuant to this act shall be in effect in all political subdivisions of the state."

Acts 1993, No. 574, § 3, provided: "All authorities and responsibilities defined in Act 43 of 1955 as amended shall be admin-

istered by the Arkansas Rehabilitation Services, under the direction of the State Board of Vocational Education except those transferred to the Division of State Services for the Blind by Act 481 of 1983.”

Acts 1993, No. 574, § 4, provided: “Any and all appropriations for the Division of Rehabilitation Services of the Department of Human Services for fiscal year 1993, plus any additional legislative appropriation for the 1993-95 biennium for the Division of Rehabilitation Services, shall be deemed to be appropriated to and shall be made available for the operation and maintenance of the Arkansas Rehabilitation Services of the Division of Vocational and Technical Education of the Department of Education. The Director of the Department of Finance and Administration shall transfer to the Arkansas Rehabilitation Services all appropriations and funds from any other sources in the custody or control of the Department of Human Services which are designated for the Division of Rehabilitation Services.”

Acts 1993, No. 574, § 5, provided: “The State Board of Vocational Education, through the Arkansas Rehabilitation Services, shall provide the rehabilitation services authorized by this act to eligible physically or mentally disabled individuals and those who can benefit from independent living services, determined by the agency to be eligible therefor, and, in carrying out the purposes of this act, the Arkansas Rehabilitation Services is authorized, among other things:

“(a) to be the sole state agency to supervise and administer the rehabilitation services authorized by this act except such part or parts as may be administered by a local agency in a political subdivision of the state, in which case the service shall be the sole agency to supervise such local agency in the administration of such part or parts; and

“(b) to conduct research and compile statistics relative to the provision of services or the need of services of disabled individuals.”

Acts 1993, No. 574, § 6, provided: “Any and all statutory authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations or other funds, transferred from the Division of Rehabilitative Services to the Department of Human Services by Act 348 of 1985 are

hereby transferred to the Arkansas Rehabilitation Services of the Division of Vocational and Technical Education of the Department of Education.”

Acts 1993, No. 574, § 7, provided: “All employees of the Arkansas Rehabilitation Services as of effective date of this act shall be eligible for membership in the Public Employees Retirement System or Teacher Retirement System or alternate retirement systems. Any such employee who desires to change retirement systems must do so within ninety (90) calendar days after the effective date of this act.”

Acts 1993, No. 574, § 8, provided: “The Division of Rehabilitation Services of the Department of Human Services as now constituted shall continue in existence for all purposes, intact, until July 1, 1993, at which time said Division shall be transferred to the Division of Vocational and Technical Education of the Department of Education. The transfer shall include all employees, powers, duties, licenses, privileges, equipment, vehicles, furniture, fixtures, supplies, books, records, stock, goods, funds, unexpended appropriations and facilities relating to rehabilitation services and training. The Department of Human Services will transfer appropriate positions, as identified by the Arkansas Rehabilitation Services, necessary to meet Arkansas Rehabilitation Services administration and program support needs in numbers not to exceed those transferred from the Division of Rehabilitation Services to the Department of Human Services by Acts 348 and 752 of 1985.”

Acts 1993, No. 574, § 9, provided: “State Building Services shall insure that all offices of the Arkansas Rehabilitation Services of the Division of Vocational and Technical Education of the Department of Education are exemplary models of accessibility and conform to Americans with Disabilities Act Accessibility Guidelines.”

Amendments. The 1997 amendment substituted “House and Senate Interim Committees on State Agencies” for “Joint Interim Committee on State Agencies” in (b)(1).

The 2001 amendment by Nos. 1213 and 1553 substituted “eleven (11)” for “ten (10)” in the introductory language of (a); and added (a)(11) and made related changes.

Cross References. Division of Youth Services, § 9-28-201 et seq.

25-10-103. [Repealed.]

Publisher's Notes. This section, concerning mental health services under the direction of the State Hospital Board, was repealed by Acts 1995, No. 1261, § 18.

The section was derived from Acts 1985, No. 348, §§ 2, 8; A.S.A. 1947, §§ 5-902, 5-912c; Acts 1993, No. 410, § 3.

25-10-104. Developmental disabilities services — Board of Developmental Disabilities Services.

(a) The Board of Developmental Disabilities Services and the institutional and supportive facilities of the human development centers located at Alexander, Conway, Arkadelphia, Jonesboro, Booneville, and the Southeast Human Development Center at Warren, and all improvements and additions to those institutional units made subsequent to February 4, 1971, shall be operated under the control of the Board of Developmental Disabilities Services within the Department of Human Services.

(b) The Board of Developmental Disabilities Services shall name the administrative head or director of each of the respective institutions under the board's jurisdiction with the concurrence of the Director of the Department of Human Services.

(c) Under a type 1 transfer of the Board of Developmental Disabilities Services, and the institutions under its management and control, to the Department of Human Services, the board shall have control of all budgeting, purchasing, and related management functions in accordance with the limitations and restrictions thereon provided in this act and by other laws applicable thereto.

(d)(1) It is the intent of this section that the administration of the human development centers located at Alexander, Arkadelphia, Booneville, Conway, Jonesboro, and the Southeast Human Development Center at Warren, and the various facilities and services thereof, shall be under the control of the Board of Developmental Disabilities Services, as provided and intended by the Arkansas Constitution, Amendment 33, but the board shall exercise its control in accordance with the general guidelines, policies, and regulations of the Department of Human Services governing divisions, offices, sections, or units within the department with respect to budgets, personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the director.

(2) It is the intent of this act that the Board of Developmental Disabilities Services shall devote its time and resources to the operation and management of the state-owned and controlled institutional programs of the various state human development centers and that the establishment and operation of community programs, workshops, and other services for the mentally retarded or developmentally disabled in this state and other regional and community services benefiting the mentally retarded or developmentally disabled shall be administered by the Department of Human Services through the divisions, offices,

sections, or units of the department as determined by the director of the department.

(e)(1) Nothing in this act shall be construed to prevent community providers from making determinations consistent with guidelines and criteria established by the state with respect to the appropriate placement of eligible developmentally disabled persons in the least restrictive setting and the development of individual program plans for instructional and case management functions for developmentally disabled persons, in keeping with the requirements of regulations promulgated pursuant to Pub. L. No. 94-142 of 1975 and § 504 of the Rehabilitation Act of 1973.

(2) The state reserves the authority to make final determination of eligibility for services funded, in whole or in part, by state and federal funds.

History. Acts 1985, No. 348, §§ 3, 8; A.S.A. 1947, §§ 5-902, 5-912d.

Publisher's Notes. Acts 1985, No. 348, § 3, provided, in part, that all functions vested in the Board of Developmental Disabilities Services with respect to community programs, workshops, and other services for the mentally retarded or developmentally disabled, and all other duties, programs, or services under the board's jurisdiction, except those specified in subsection (a) of this section, were transferred to the Department of Human Services to be performed by the divisions, offices, etc., designated by the director of the department. The section specifically transferred to the department the powers and duties granted the board under §§ 20-48-207 — 20-48-209, 20-48-211, and 20-48-301 — 20-48-305.

As to transfer of Board of Developmental Disabilities Services to Department of Human Services, see Publisher's Notes to § 25-10-101.

Acts 1971, No. 38, § 12, transferred the Arkansas Board of Mental Retardation (now the Board of Developmental Disabilities Services) and the Arkansas Children's Colonies (now human development centers) to the Department of Social and Rehabilitative Services (now Department of Human Services) by a type 1 transfer.

Meaning of "this act". Acts 1985, No. 348, referred to in this section, is codified as §§ 20-46-202 [repealed], 20-46-301, 25-2-104, 25-2-105, 25-2-107, 25-10-102, 25-10-103 [repealed], 25-10-104, 25-10-105 [repealed], 25-10-106, 25-10-108, 25-10-109, 25-10-111, 25-10-113, 25-10-115, and 25-10-116.

U.S. Code. Public Law 94-142, referred to in this section, is codified as 20 U.S.C. §§ 1232, 1401, 1405, 1406, 1411-1420, 1453. Section 504 of the Rehabilitation Act of 1973 is codified as 29 U.S.C. § 794.

25-10-105. [Repealed.]

Publisher's Notes. This section, concerning the Arkansas Youth Services Board, was repealed by Acts 1995, No.

1261, § 18. The section was derived from Acts 1985, No. 348, §§ 4, 8; A.S.A. 1947, §§ 5-902, 5-912e.

25-10-106. Division heads and other personnel.

(a)(1) The Director of the Department of Human Services, with the advice and consent of the Governor, shall appoint the heads of the various divisions of the Department of Human Services.

(2) The heads of the respective offices, sections, or units of the department and all other personnel of the department shall be em-

ployed by and serve at the pleasure of the Director of the Department of Human Services.

(b)(1) However, the directors of the various institutions and programs under the jurisdiction and control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services shall be named by the respective boards, with the concurrence of the Director of the Department of Human Services.

(2) All personnel employed in the institutions under the management and control of those boards shall be named by the directors thereof, under the departmental rules and regulations related to personnel, and all personnel records of the boards of those institutions shall be in conformance with the general personnel policies promulgated by the Director of the Department of Human Services for other employees of the department.

(c) Nothing in this act shall be construed to reduce any rights which an employee of the department or the various divisions, offices, sections, or units thereof shall have under any civil service or merit system.

History. Acts 1971, No. 38, §§ 5, 12; 1985, No. 348, §§ 5, 12; A.S.A. 1947, §§ 5-912, 5-912i.

A.C.R.C. Notes. The State Hospital Board and the Youth Services Board, formerly referred to in this section, were

transferred by a type 1 transfer to the Department of Human Services State Institutional System Board by Acts 1995, No. 1162, § 3.

Meaning of "this act". See note to § 25-10-104.

CASE NOTES

Cited: Drake v. Scott, 812 F.2d 395 (8th Cir. 1987); Drake v. Scott, 823 F.2d 239 (8th Cir. 1987).

25-10-107. Reports by divisions.

(a) All other divisions within the Department of Human Services shall provide the Division of Administrative Services of the Department of Human Services with all policies regarding personnel administration, procurement of commodities and services, accounting and budget control, licensure of facilities, program planning and evaluation, contractual agreements with consultants and providers of services, data processing systems management, federal grant management, and any other information which may be requested by the Division of Administrative Services.

(b) The other divisions shall report quarterly to the Division of Administrative Services concerning the areas of coordination and cooperation where the divisions have worked with other departmental divisions and concerning the plans for coordination and cooperation in the next quarter. A copy of the report shall be sent to the Legislative Council upon request of the Legislative Council.

History. Acts 1983, No. 307, § 3;
A.S.A. 1947, § 5-912.4; Acts 1995, No.
164, § 2.

25-10-108. Coordination of programs, procedures, etc., of department and institutional boards.

In addition to the functions and duties provided by law to be performed by the Director of the Department of Human Services, the director shall direct those divisions, offices, sections, or units of the department which he or she may designate to:

(1) Serve in a liaison capacity for the Department of Human Services and the director thereof with the boards and the directors of the various institutional facilities of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in efforts to coordinate services provided citizens of this state through those institutions with programs of the department for the benefit of neglected, dependent, and delinquent juveniles, the mentally ill, and the mentally retarded or developmentally disabled of this state;

(2) Cooperate with the administrators of the various institutions under the direction and control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in the administration of fiscal and budgetary policies applicable to all divisions and programs of the department as promulgated by the director thereof and as directed by the Chief Fiscal Officer of the State;

(3) Offer assistance to the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in developing biennial budgets and annual, quarterly, and monthly fiscal plans for the operation of those institutions and assist those boards in complying with the budget and fiscal policies promulgated by the Director of the Department of Human Services for the control and management of the funds made available to the department and its various offices, divisions, programs, and institutions. In connection therewith, the boards shall be furnished records of all accounts, expenditures, funds, and fund balances available to each institution for its operation and support;

(4)(A) Coordinate, with each institution and its administrator under the control and direction of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services, the purchasing policies and procedures of the department as promulgated by the director thereof to assure that all those institutions comply with the uniform purchasing practices and policies of the department and with the Arkansas Procurement Law, § 19-11-201 et seq., and the rules and regulations promulgated thereunder by the State Purchasing Director.

(B) However, each of the various institutions under the control of the Department of Human Services State Institutional System Board

and the Board of Developmental Disabilities Services within the Department of Human Services is authorized to have institutional purchasing officials who shall be authorized to make purchases in behalf of those institutions which are not within the exclusive jurisdiction of the State Purchasing Director, but all such purchases shall be made in compliance with the uniform purchasing practices and policies promulgated by the Director of the Department of Human Services to be applicable to all divisions, offices, sections, or units of the department and shall be in conformance with the Arkansas Procurement Law, § 19-11-201 et seq., and regulations promulgated by the State Purchasing Director.

(5)(A) Coordinate the policies promulgated by the Director of the Department of Human Services for the administration of personnel and personnel records within the various divisions, offices, sections, or units of the department with the Department of Human Services State Institutional System Board, the Board of Developmental Disabilities Services within the Department of Human Services, and the administrators of each of those institutions to assure that all employee records and personnel records conform to the personnel policies and records promulgated by the Director of the Department of Human Services and to the personnel policies and practices laws of the State of Arkansas.

(B) Nothing in this act shall prohibit or restrict the right of each of the institutional boards to employ, promote, discipline, or discharge any employee of any of those institutions so long as those actions are within the overall policies and procedures promulgated by the Director of the Department of Human Services governing employee practices or actions.

History. Acts 1985, No. 348, § 9; A.S.A. 1947, § 5-912f.

A.C.R.C. Notes. The State Hospital Board and the Youth Services Board, formerly referred to in this section, were transferred by a type 1 transfer to the

Department of Human Services State Institutional System Board by Acts 1995, No. 1162, § 3.

Meaning of "this act". See note to § 25-10-104.

25-10-109. Institutional services generally — Development of admission policies, etc.

In addition to the functions and duties provided by law and this act to be performed by the Board of Developmental Disabilities Services within the Department of Human Services and the Department of Human Services State Institutional System Board, it is the intent of this act that those boards shall cooperate with the Director of the Department of Human Services, the divisions, offices, sections, or units of the Department of Human Services created by this act, and the programs funded by and operated by the department by developing admission policies, criteria, and services which will assure appropriate access to institutional services to meet the residential service needs of the citizens of this state.

History. Acts 1985, No. 348, § 10; A.S.A. 1947, § 5-912g.

A.C.R.C. Notes. The State Hospital Board and the Youth Services Board, formerly referred to in this section, were transferred by a type 1 transfer to the

Department of Human Services State Institutional System Board by Acts 1995, No. 1162, § 3.

Meaning of "this act". See note to § 25-10-104.

25-10-110. Institutional services generally — Charges.

(a) It is found and determined by the General Assembly that under existing law most institutions in the Department of Human Services engaged in providing services to members of the general public seek recovery of the costs of providing those services on the basis of the average per capita cost. It is further found and determined that these methods of charging costs result in significant revenue losses to the state and do not allow the recovery of the actual costs of providing the services.

(b) The Divisions of Mental Health Services, Rehabilitation Services, Youth Services, and Developmental Disabilities Services of the Department of Human Services are permitted to charge for institutional services provided to members of the public on an actual cost basis rather than on a per capita or other basis.

History. Acts 1975, No. 340, §§ 1, 2; A.S.A. 1947, §§ 5-912.2, 5-912.2n.

A.C.R.C. Notes. Rehabilitation Services, referred to in this section, is no

longer a division of the Department of Human Services. See §§ 25-30-106 and 25-30-201 et seq.

25-10-111. Budgeting generally.

(a)(1) The Director of the Department of Human Services shall obtain from each division, office, section, or unit of the Department of Human Services, including the institutions and institutional boards thereunder, all requests for biennial appropriations and all requests for special supplemental or construction appropriations.

(2) The director shall review the requests and submit to the Chief Fiscal Officer of the State, the Governor, and the Legislative Council a coordinated budget for all divisions, offices, programs, institutions, and services of the department in whatever detail may be required by the state budgetary laws and by the budget forms and procedures promulgated by the Chief Fiscal Officer of the State and by the Legislative Council.

(b) It shall be the responsibility of the director to operate all of its divisions, offices, and programs and to require that each of the institutional boards under the department administer their programs within those fiscal limitations and restraints which the director deems necessary to assure that each program, service, and institution within the department receives an allocation of funds in accordance with the needs of the respective programs, services, and institutions and within the limitation of the moneys allocated and appropriated to the department for the operation of those programs, services, and institutions.

(c)(1) Although it is the intent of this act that the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services shall each operate their institutional programs and services within the Department of Human Services with autonomy and independence as intended by the Arkansas Constitution, Amendment 33, the General Assembly recognizes that reasonable fiscal policies are necessary to assure that the various services of government are operated on a sound financial basis and that deficit spending is not implemented.

(2) In furtherance of that policy, the General Assembly determines that:

(A) The director, with respect to the allocation of funds and the exercise of fiscal restraint over all divisions, offices, sections, units, programs, services, and institutions within the department, shall have the ultimate authority to allocate and limit the amount of funds to be expended in the operation of each division, office, program, service, and institution within the department as he or she deems necessary to comply with the fiscal laws of this state; and

(B) Nothing herein shall be construed to limit the ultimate authority of the director to develop and operate the various programs in the state institutional system.

(3) However, all real property, including capital improvements thereon, constituting the Department of Human Services State Institutional System shall be under the control of the Department of Human Services State Institutional System Board, and that board may convey by sale or lease any real property within the state institutional system.

History. Acts 1985, No. 348, § 11; A.S.A. 1947, § 5-912h; Acts 1997, No. 1333, § 1.

Amendments. The 1997 amendment added "and that nothing herein shall be

construed ... within the state institution system" in (c).

Meaning of "this act". See note to § 25-10-104.

25-10-112. [Repealed.]

Publisher's Notes. This section, concerning reallocation of resources, was repealed by Acts 1999, No. 1537, § 83. The section was derived from Acts 1983, No.

307, § 5; 1985, No. 772, § 15; A.S.A. 1947, § 5-912.5; Acts 1987, No. 961, § 17; 1989 (1st Ex. Sess.), No. 68, § 16; 1997, No. 1360, § 81.

25-10-113. Disposition of direct services funds.

(a) It is the intent and purpose of this act that no appropriation of funds provided by the General Assembly to the Department of Human Services for direct-care assistance to individuals or for the purchase of direct services for individuals shall be used in defraying state administrative or state case management costs of the department.

(b) It is the specific intent of this act to prevent the diversion of community grant-in-aid line funds for any purpose that would not provide direct services to developmentally disabled clients in community programs.

History. Acts 1985, No. 348, § 13; **Meaning of "this act".** See note to A.S.A. 1947, § 5-912j. § 25-10-104.

25-10-114. Developmental disabilities — Special authorization — Cash funds.

(a) All funds received by the Division of Developmental Disabilities Services of the Department of Human Services shall be placed in the State Treasury and expended via appropriation.

(b) Those funds held in trust by the agency for the residents of the human development centers, including gifts and bequests, shall be considered agency funds to be expended from bank accounts without legislative appropriation.

(c) The Chief Fiscal Officer of the State shall have the final authority to determine those funds which may be exempted from being placed in the State Treasury unless otherwise provided by law. However, no agency funds deposited in bank accounts shall be expended for purposes other than those allowed for the expenditures of State Treasury funds under the provisions of the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

History. Acts 1977, No. 787, § 10; 1995, No. 1198, § 70.

25-10-115. County offices of human services.

(a) The Director of the Department of Human Services shall establish a county office of human services in each county of this state. The county offices shall provide the citizens of each county access to the various services and programs provided by the Department of Human Services as well as follow-up contact and services.

(b) In establishing a county office of human services, it is necessary that each county office be staffed to provide complete access to services and programs of the department.

History. Acts 1985, No. 348, § 13; A.S.A. 1947, § 5-912j.

25-10-116. Advisory committees generally.

(a) From time to time, the Director of the Department of Human Services or the Governor may establish various advisory committees to assist the director and the various divisions, offices, sections, or units within Department of Human Services in reviewing and offering advice on any of the programs, services, and duties of the department which the director or the Governor may deem appropriate for the proper and efficient operation of the department and its respective programs, services, and duties.

(b) The advisory committees shall exist for the duration determined by the director or the Governor.

(c) The members of the advisory committees shall be reimbursed for actual and necessary meals, lodging, and mileage for travel in accordance with the procedures and standards provided by law or regulation for official travel by state employees in the performance of their duties. Payment shall be made from funds appropriated to the department.

History. Acts 1985, No. 348, § 1; section (c) may be affected by the enactment of Acts 1995, No. 1211, codified as A.S.A. 1947, § 5-912b.

A.C.R.C. Notes. The operation of sub- § 25-16-901 et seq.

25-10-117. Community Services Advisory Council.

(a) There is established a Community Services Advisory Council consisting of thirteen (13) members to be appointed by the Governor for terms of two (2) years concurrent with the Governor's term of office. The members of the advisory council shall be appointed as follows:

(1) Two (2) members representing the governing bodies of cities or towns with a population of twenty-five thousand (25,000) or more;

(2) Two (2) members representing the governing bodies of cities or towns with a population of less than twenty-five thousand (25,000);

(3) Two (2) members representing the governing bodies of counties located partially or wholly in a standard metropolitan statistical area;

(4) Two (2) members representing the governing bodies of counties not located partially or wholly in a standard metropolitan statistical area;

(5) The President of the Arkansas Municipal League;

(6) The President of the Arkansas Association of Counties;

(7) The President of the Arkansas Community Action Agencies; and

(8) Two (2) members to be chosen from the public at large to represent the general interest of the citizens in this state.

(b) Any member of the advisory council appointed by virtue of his or her position in local government or as an officer in an organization who ceases to hold that position shall cease to serve on the council, and his or her successor shall be named or designated in the same manner as herein provided for the original appointment.

(c) The Governor shall name the chair of the advisory council, and the advisory council may choose such other officers from its membership as it deems appropriate.

(d) All members of the advisory council shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties, within the limitations as imposed by the applicable state travel regulations for travel for state officials.

(e) The advisory council shall advise the Governor and the Director of the Office of Community Services on all aspects of the duties and operation of the office and shall especially offer guidance and leadership to assist the office in providing services, information, and technical assistance requested by local government and community action agencies to assist them in performing essential services of government.

History. Acts 1981, No. 764, § 5; A.S.A. 1947, § 5-904.2.

A.C.R.C. Notes. Acts 1975, No. 278, § 1, which amended Acts 1971, No. 38, § 4, created a Local Services Advisory Council whose duties were similar to those of the Community Services Advisory Council. The relevant statutory language is as follows:

“(A)(1) ***

“(B)(1) ***

“(5) There is hereby established a Local Services Advisory Council consisting of seventeen (17) members to be appointed by the Governor for two-year terms, concurrent with the Governor’s term of office. The members of the advisory council shall be appointed as follows:

“(a) Two members representing the governing bodies of cities with a population greater than twenty-five thousand (25,000);

“(b) Two members representing the governing bodies of cities and/or towns with a population less than twenty-five thousand (25,000);

“(c) Two members representing the governing bodies of counties located partially or wholly in a standard metropolitan statistical area;

“(d) Two members representing the governing bodies of counties not located partially or wholly in a Standard Metropolitan Statistical Area;

“(e) President of the Arkansas City Management Association;

“(f) President of the Arkansas Municipal League;

“(g) President of the Arkansas Association of Counties;

“(h) Five members to be chosen from the public at-large, with at least one member to be chosen from each of the four congressional districts of the state, to represent the general interest of the citizens of this state.

“(i) One member to be chosen by the Arkansas Association of Development Organizations, Inc.

“No member of the advisory council ap-

pointed by virtue of his position in local government, or as an officer in an organization, who ceases to hold such position, shall continue to serve on the council, and his successor shall be named or designated in the same manner as herein provided for the original appointment. The Governor shall name the Chairman of the Advisory Council, and said Advisory Council may choose such other officers from its membership as deemed appropriate. All members of the advisory council shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties, within the limitations as imposed by the applicable state travel regulations for travel for state officials.

“The advisory council shall advise with the Governor and the Director of the Department of Local Services in all aspects of the duties and operation of the department, and shall especially offer guidance and leadership to assist the department in providing services, information, and technical assistance requested by local governments to assist them in performing essential services of government.”

Acts 1981, No. 764, § 1, amended the section so as to delete the language concerning the council, and § 5 of the act, which is codified as this section, created the Community Services Advisory Council. However, § 6 of the act continued all advisory councils which had been created to advise the Department of Local Services (abolished) with respect to particular programs transferred from that department to another agency by the act. The impact of these provisions on the Local Services Advisory Council is unclear.

The operation of subsection (d) may be affected by the enactment of Acts 1995, No. 1211, codified as § 25-16-901 et seq.

Publisher’s Notes. The Governor now serves a four-year term. See Ark. Const. Amend. 63.

25-10-118. Child support enforcement program — Reports.

The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration shall file a semiannual report with the Legislative Council concerning performance and

progress made in administering the Child Support Enforcement Program approved under Title IV-D of the Social Security Act.

History. Acts 1989 (1st Ex. Sess.), No. 44, § 12; 1995, No. 1184, § 35.

A.C.R.C. Notes. Former § 25-10-118, and identical § 9-14-203 which had been renumbered as § 25-10-118, concerning reporting requirements, are deemed to be superseded by this section. The former

section was derived from Acts 1983, No. 926, § 40; 1985, No. 649, § 32; 1987, No. 921, § 15; A.S.A. 1947, § 34-2457.

U.S. Code. Title IV-D of the Social Security Act, referred to in this section, is codified as 42 U.S.C. § 651 et seq.

25-10-119. Certification of vouchers.

(a) The designated disbursing officers for the Department of Human Services are hereby authorized to complete and sign one (1) certification for each state voucher or other designated document that authorizes the Auditor of State or other official to draw a state warrant or check on a bond administered by the department.

(b) The voucher or other authorizing document can consist of one (1) or more pages, and in the event that more than one (1) page is used, then the designated disbursing officer is to manually sign the last page only, and any certification is to be so worded that it will apply to all pages of the document.

History. Acts 1989 (1st Ex. Sess.), No. 68, § 19.

A.C.R.C. Notes. Former § 25-10-119 concerning the certification of vouchers, is

deemed to be superseded by this section. The former section was derived from Acts 1987, No. 961, § 21.

25-10-120. Research and Training Institute.

(a) The Research and Training Institute is authorized to seek, accept, and administer public or private funds, consisting of donations, federal and state grants, aids, contracts, reimbursements, cash donations, or state general revenue to accomplish its purposes. The institute is intended to:

(1) Promote recruitment and retention of highly qualified professionals at programs operated or certified by the Division of Mental Health Services of the Department of Human Services, community mental health center programs, and other public sector mental health programs in Arkansas;

(2) Improve clinical care by exploring new, innovative, and scientifically based treatment models for adults with serious mental illness and children and adolescents with serious emotional disturbance;

(3) Provide expanded clinical research and clinical-based research training opportunities for existing staff in institutional and community-based programs operated, certified, or supported by the division; and

(4) Promote the understanding of the various interdisciplinary treatments and the challenges facing institutional and community-based mental health professionals in Arkansas.

(b) To accomplish these purposes, the institute may enter into joint operating agreements with state universities or other institutions of higher education to:

(1) Accomplish the placement and training of students and faculty in psychiatry, psychology, social work, occupational therapy, nursing, and other relevant professions;

(2) Design, support, and implement clinical research projects to improve the quality and effectiveness of mental health services and operations;

(3) Enter into agreements with community mental health centers and other public mental health providers to accomplish the exchange of professional staff between state-operated programs and community mental health centers; and

(4) Establish a student loan program in accordance with procedures established by the Chief Fiscal Officer of the State, when the Director of the Division of Mental Health Services has determined a shortage of such professionals exists.

(c) Notwithstanding any other provisions of law to the contrary, the institute may enter into agreements with the division which may involve changes in staffing necessary to implement improved patient care programs contemplated by this section, and may enter into agreements with the University of Arkansas for Medical Sciences, Department of Psychiatry, to jointly operate or to support specific undertakings that are congruent with the institute's stated purposes.

History. Acts 1991, No. 1082, § 21.

25-10-121. Proceeds from the sale of land — Deposit in special trust fund.

(a) Pursuant to the process delineated in § 22-6-601, in lieu of depositing the proceeds of the sale of lands in the fund from which the division or state agency is operated, a board of a state agency or a division within the Department of Human Services holding lands in its name may request, as a condition for sale of the lands, that the proceeds be deposited in a special trust fund to be created in the name of the board, state agency, or division on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State.

(b) Proceeds placed in the special trust fund shall be used solely for the maintenance and operation of the programs of the division, state agency, or board under whose name the lands were held.

(c) If the division, state agency, or board requests the proceeds to be deposited in a special trust fund, the creation of the trust fund and the transfer of the proceeds to the trust fund shall be subject to approval by the Governor as a condition for approval of the sale.

History. Acts 1991, No. 1085, § 24.

25-10-122. Office of Minority Mental Health — Creation.

(a) There is created an Office of Minority Mental Health within the Division of Mental Health Services of the Department of Human Services.

(b) The head of the Office of Minority Mental Health shall be appointed by the Director of the Department of Human Services.

History. Acts 1991, No. 1210, § 1.

25-10-123. Programs and policies — Development.

The Office of Minority Mental Health within the Division of Mental Health Services of the Department of Human Services shall develop programs and policies concerning the following:

- (1) Providing culturally relevant mental health services to minority mentally ill people;
- (2) Improving the availability and accessibility of mental health services to minority long-term mentally ill;
- (3) Educating minority mentally ill about their illness;
- (4) Providing minority families with education on mental illness; and
- (5) Providing accessible educational training within the mental health setting and the minority community.

History. Acts 1991, No. 1210, § 2.

25-10-124. Administration of state or federal funds.

(a) The Office of Minority Mental Health within the Division of Mental Health Services of the Department of Human Services is the authorized state agency to accept, receive, retain, and administer any state or federal funds relating to minority mental health.

(b) The Office of Minority Mental Health shall develop, comment on, and revise any designations of areas of minority mental health as underserved.

History. Acts 1991, No. 1210, § 3.

25-10-125. [Repealed.]

Publisher's Notes. This section, concerning reimbursement of providers of targeted and independent case management services, and training and certifica-

tion, was repealed by Acts 1992 (1st Ex. Sess.), No. 1, § 6. The section was derived from Acts 1991, No. 922, § 18.

25-10-126. Grants-in-aid — Conditions for receiving funds.

Any private nonprofit community-based agency that receives grants-in-aid through the Department of Human Services for the provision of services, as a condition of receiving such funds, shall:

- (1) Meet minimum standards of performance in the delivery of services as defined by the department's division or office from which the grant-in-aid is awarded;
- (2) Supply statistical data to the department; and
- (3) Establish and maintain a sound financial management system in accordance with guidelines as set forth by the department.

History. Acts 1993, No. 1239, § 71.

25-10-127. Advance disbursements.

Advance disbursements of funds to providers made under payment methodologies are authorized when approved in advance by the Chief Fiscal Officer of the State.

History. Acts 1993, No. 1239, § 72.

25-10-128. Division of Volunteerism.

(a) There is created in the Department of Human Services a Division of Volunteerism.

(b) Administrative assistance to coordinate the activities of the division shall be given by a Deputy Director for Volunteerism who will devote full time to the duties of the office and assume the responsibility for carrying out the duties prescribed by this section. The deputy director shall employ any employees who are necessary to carry out the goals of the office, subject to appropriation by the General Assembly.

(c) The duties and responsibilities of the Division of Volunteerism are as follows:

(1) To assess and recognize the needs of communities throughout Arkansas and to recruit, train, and coordinate volunteers and volunteer organizations in meeting those needs;

(2) To assist in specific projects involving volunteers to meet community needs;

(3) To provide greater public awareness and recognition of volunteer efforts; and

(4) To assist in devising training programs for use by community organizations which have programs to assist welfare recipients and to assist other divisions of the department in devising and administering programs to match those current and past welfare recipients with any community organizations which desire to assist them.

(d) The program and staff of the Division of Volunteerism will be assisted by an advisory council. It will be the responsibility of this council to assist the staff in setting goals, establishing priority activities, performing an advocacy role, and assisting in funding and resource development and publicity and recognition and awards programs. Council members shall be appointed by the Governor from existing state, local, and private agencies which operate volunteer programs and shall serve at the pleasure of the Governor.

History. Acts 1993, No. 403, § 19; 1997, No. 1259, § 1.

Cross References. State and Local Government Volunteers, § 21-13-101 et seq.

Amendments. The 1997 amendment added (c)(4).

25-10-129. Department of Human Services authorized to issue rules to assure compliance with federal statutes, rules, and regulations.

(a)(1) It is the intent of the General Assembly that the State of Arkansas utilize federal funding to the fullest extent possible to provide care to persons eligible for assistance or benefits under programs wholly or partially federally funded or fundable.

(2) The General Assembly recognizes that the Department of Human Services is presently charged with, among other things, all welfare activity in the state, including:

- (A) Services to children and to the aged, blind, and disabled;
- (B) Public assistance; and
- (C) Medical assistance.

(3) The General Assembly further recognizes that federal laws and regulations affecting such programs are the supreme law of the land and change frequently, sometimes with little or no advance notice to the state, such that it is impractical to prescribe the operations of such programs by statute.

(4) It is therefore the intent of the General Assembly to clarify and consolidate the authority of the department to assure conformity with all applicable federal dictates by empowering the department and its divisions to, by rule, adopt or implement all federal statutes, rules, and regulations as may be currently in force, or as may be adopted or amended in the future, when such rule is necessary to conform to federal statutes, rules, and regulations affecting programs administered or funded by or through the department.

(b) The department and its various divisions are hereby authorized and directed to promulgate rules, as necessary to conform to federal statutes, rules, and regulations as may now or in the future affect programs administered or funded by or through the department or its various divisions, as necessary to receive any federal funds which may now or in the future be available to the department or its various divisions.

(c) All rules promulgated pursuant to this section shall be promulgated in conformity with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and after legislative review as required by § 10-3-309.

History. Acts 1995, No. 710, §§ 1-3.

25-10-130. Employee assistance programs — Prohibition of agreement for services.

The Department of Human Services shall not enter into any contract, memorandum of understanding, or interagency agreement for an employee assistance program that provides health-related services such as, but not limited to, drug or alcohol treatment services for the employees of the department.

History. Acts 1995, No. 1198, § 59.

25-10-131. Match transfer.

The Director of the Department of Human Services, with the approval of the Chief Fiscal Officer of the State, is authorized to effect interagency fund transfers for the purpose of providing the state's matching share for payments made to that division or office, or its service providers, for services eligible for federal reimbursement under programs administered by other divisions or offices of the Department of Human Services.

History. Acts 1995, No. 1198, § 62.

25-10-132. Medical services and county operations — Use of local funds.

To the extent allowed by federal requirements, including waiver, demonstration and pilot project options, the Division of Medical Services of the Department of Human Services and the Division of County Operations of the Department of Human Services shall use local and donated funds to obtain federal matching funds to enhance federal agency programs.

History. Acts 1995, No. 1198, § 79.

A.C.R.C. Notes. Acts 2001, No. 1638, § 13 provided: "MEDICAL SERVICES AND COUNTY OPERATIONS - USE OF LOCAL FUNDS. To the extent allowed by Federal requirements, including waiver,

demonstration and pilot project options, the Division of Medical Services and the Division of County Operations shall use local and donated funds to obtain federal matching funds to enhance federal agency programs."

25-10-133. Mental health services — Transfer provision.

(a)(1) Personnel positions and appropriations provided for all programs of the Division of Mental Health Services of the Department of Human Services may be reallocated when such actions are determined necessary to assure continued delivery of satisfactory levels of services in any of the several programs administered by the division.

(2) Such reallocations or transfers shall be requested by the Director of the Department of Human Services.

(b) Any saving made in state or federal appropriations for regular salaries, extra help, social security and retirement matching, or maintenance and general operations, and grants for approved projects, upon

prior review by the Legislative Council and approval of the Department of Finance and Administration, may be transferred to the purchase of services for persons with long-term mental illness and in the establishment, operation, and maintenance of facilities, centers, or programs for this population.

History. Acts 1995, No. 1198, § 86.

25-10-134. Community-based residential programs — Regulations.

(a)(1) The Department of Human Services shall not contract for community-based residential programs within any municipalities to house unrelated juveniles who have been adjudicated delinquent for a sexual offense or serious violent offense, or convicted of a sexual offense or a serious violent offense, until a community-based program has complied with regulations promulgated within thirty (30) days of July 1, 1995, by the department as set out herein.

(2) The purpose of these regulations is to ensure public notice and public safety in the department's process of contracting for residential services for adjudicated or convicted juvenile sexual offenders or adjudicated or convicted serious violent offenders.

(3) Provided further, the regulations shall be developed by the department and members of a committee appointed by the Governor, to include representatives of the following:

- (A) The General Assembly;
- (B) Local elected officials;
- (C) Citizen representatives of local communities;
- (D) Prosecuting attorneys;
- (E) Judges of circuit court, juvenile division;
- (F) Community-based providers;
- (G) Law enforcement officers; and

(H) At least one (1) recognized mental health professional who specializes in the treatment of juvenile sexual offenders and juvenile serious violent offenders.

(4) The regulations shall include, but are not limited to, the following:

(A) Definitions for the terms "sexual offense" and "sexual offender" and "serious violent offense" and "serious violent offender" for purposes of this section;

(B) Procedures for notice to residents within a specified geographic area of a proposed residential program for juvenile sexual offenders and juvenile serious violent offenders, as defined in the regulations;

(C) Procedures for preplacement review of juvenile sexual offenders and juvenile serious violent offenders to determine that individual placements are appropriate, taking into account the location of a facility and a juvenile's offense or offenses, past treatment, prognosis, and present behavior;

(D) Procedures to determine that the level of supervision in a residential program is adequate for the individuals housed in the program; and

(E) Procedures for the department and a community-based contract provider to receive and respond to complaints and questions of residents of a community in which a community-based program is proposed or established, including remedies for a failure to respond.

(b)(1) The department shall not contract or pay for community-based residential programs within any municipality to house unrelated persons who have been adjudicated delinquent of an act that would constitute a Class A felony or higher or of a sexual offense, or convicted of a Class A felony or higher or sexual offense, until the following conditions have been met:

(A) Residents within one thousand feet (1,000') of the proposed location of the facility shall be notified by mail; and

(B)(i) A public hearing shall be conducted in the community of the proposed location of the facility by the contract provider at least ten (10) days in advance of the contract's effective date.

(ii) Notice of the hearing shall be made by mail to each of the residents within one thousand feet (1,000') of the proposed location of the facility.

(iii) The notification requirement shall not apply to already existing facilities at already existing locations.

(2) Provided further, upon establishment of such facilities within a particular municipality, the contract provider and the department shall establish and implement a system to receive and respond to complaints and questions from residents of such municipality.

(3) In the event the department and the provider fail to provide satisfactory communication to the residents, as provided in this subsection, such facility may be declared a public nuisance by the municipality.

(c) The department shall include the following requirements in all contracts with community providers who provide community transition homes for juveniles who have been adjudicated delinquent for a Class A felony criminal offense or higher, or convicted of a Class A felony or higher criminal offense, or are youthful felony sex offenders:

(1) Prohibit the location of programs within one thousand feet (1,000') from the grounds of community centers, schools, or other facilities with a high concentration of youths;

(2) Comply with all local zoning ordinances, including building codes;

(3) Provide advance notice of the proposed program site to municipal and county police agencies;

(4) Prohibit the participation in a community-based program to any individual who has re-offended within the past twelve (12) months; and

(5) Maintain twenty-four-hour supervision of residents by provider staff.

History. Acts 1995, No. 1198, §§ 100-102. required before locating community-based residential facilities for sex offenders, § 12-25-101.

Cross References. Public hearings

25-10-135. Youth services.

(a) The Department of Human Services shall not contract or pay for community-based residential programs within any municipality to house unrelated persons who have been adjudicated delinquent of an act that would constitute a Class A felony or higher or of a sexual offense or convicted of a Class A felony or higher or sexual offense until the following conditions have been met:

(1) Residents within one thousand (1,000) feet of the proposed location of the facility shall be notified by mail;

(2)(A) A public hearing shall be conducted in the community of the proposed location of the facility by the contract provider at least ten (10) days in advance of the contract's effective date.

(B) Notice of the hearing shall be made by mail to each of the residents within one thousand feet (1000') of the proposed location of the facility; and

(3) The notification requirement shall not apply to already-existing facilities at already-existing locations.

(b)(1) Provided further, upon establishment of the facilities within a particular municipality, the contract provider and the department shall establish and implement a system to receive and respond to complaints and questions from residents of the municipality.

(2) In the event the department and the provider fail to provide satisfactory communication to the residents as provided in this section, the facility may be declared a public nuisance by the municipality.

History. Acts 1997, No. 1360, § 99.

25-10-136. Private service contract notice required.

(a) The Department of Human Services shall notify the Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs prior to privatizing any functions or responsibilities of the Division of Youth Services of the Department of Human Services.

(b) The report shall be in writing and shall be submitted to the Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs at least sixty (60) days prior to entering into a contract with a private business entity.

(c) In the event the General Assembly is in session, the Director of the Department of Human Services shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the chair of the Senate Committee on Children and Youth.

History. Acts 1999, No. 525, § 1.

25-10-137. Private service contract performance evaluation requirement.

(a) All new contracts which privatize services and functions which had been performed by employees of the Division of Youth Services of the Department of Human Services shall include a performance evaluation provision that outlines a method for evaluating the service provided under the contract. The provision shall identify the goals and performance indicators of the contract and how the state agency intends to evaluate the service provided.

(b) The department shall report to the Senate Committee on Children and Youth and the House Committee on Aging, Children and Youth, Legislative and Military Affairs or appropriate subcommittees thereof at least annually regarding the performance evaluation of each contract.

History. Acts 1999, No. 525, § 2.

25-10-138. Education requirements for certain Division of Youth Services employees.

(a) With the assistance of the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration, the Division of Youth Services of the Department of Human Services shall promulgate regulations to increase the education requirements for youth service workers and security officers employed by the Division of Youth Services. If the services are under contract with the Division of Youth Services, the employees of the contractor shall meet the education requirements promulgated by the Division of Youth Services.

(b) No regulation pertaining to education requirements for youth service workers or security officers promulgated hereafter by the Division of Youth Services shall be effective until reviewed by the Legislative Council, the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs, and the Senate Interim Committee on Children and Youth or appropriate subcommittees thereof of the General Assembly.

History. Acts 1999, No. 469, § 1.

25-10-139. Training requirements for certain Division of Youth Services employees.

(a)(1) The Division of Youth Services of the Department of Human Services shall promulgate regulations to increase the hours of training provided to youth service workers and security officers employed by the division. If the services are under contract with the division, the employees of the contractor shall meet the training requirements promulgated by the division.

(2) The training requirements shall include, but not be limited to, training on the use of proper restraints and security crisis intervention as recommended by the standards for Juvenile Training Schools published by the American Correction Association in cooperation with the Commission on Accreditation for Corrections.

(3) The training hours shall be satisfied by the employee on a yearly basis.

(b) No regulation pertaining to the training required of youth service workers and security officers promulgated hereafter by the division shall be effective until reviewed by the Legislative Council, the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs, and the Senate Interim Committee on Children and Youth or appropriate subcommittees thereof of the General Assembly.

History. Acts 1999, No. 469, § 2.

SUBCHAPTER 2 — DIVISION OF STATE SERVICES FOR THE BLIND

SECTION.

- 25-10-201. Public policy.
- 25-10-202. Definitions.
- 25-10-203. Exemption.
- 25-10-204. Powers and duties.
- 25-10-205. Board of the Division of State Services for the Blind.

SECTION.

- 25-10-206. Legal counsel.
- 25-10-207. Division of State Services for the Blind Fund.
- 25-10-208. State services for the blind — Supplemental insurance.

A.C.R.C. Notes. References to “this subchapter” in §§ 25-10-201 — 25-10-207 may not apply to § 25-10-208 which was enacted subsequently.

Acts 1985, No. 348, § 1, provided, in part, that the Division of State Services for the Blind and the Board of the Division of State Services for the Blind would continue to function within the Department of Human Services with the same powers prescribed by this subchapter, but that, for organizational purposes, they would be assigned to divisions or offices of the department as determined by the director.

Cross References. Professional health services personnel, parity in compensation, § 20-9-101.

School for the blind, § 6-43-201 et seq.

Effective Dates. Acts 1983, No. 481, § 12: July 1, 1983. Emergency clause provided: “The General Assembly hereby finds and determines that an immediate need exists to improve the delivery of services to blind and visually impaired citizens of Arkansas; that the establishment of the Division of State Services for the Blind will improve the delivery of

services to blind and visually impaired persons and that the efficient operation of State government will be promoted by establishing the Division at the beginning of the next fiscal year. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect on July 1, 1983.”

Acts 1995, No. 1198, § 110: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being neces-

sary for the immediate preservation of the public peace, health and safety; Section 99 shall be in full force and effect from and after the date of passage and approval and the remainder of the Act shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which

are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-10-201. Public policy.

(a) It is the public policy of the State of Arkansas to furnish blind and visually handicapped persons those services which are reasonably necessary to allow them the opportunity to lead full, useful, and productive lives and to expend funds available for that purpose in the most efficient and effective manner possible.

(b) The General Assembly finds that this purpose may be best accomplished by the establishment of a Division of State Services for the Blind within the Department of Human Services with the necessary authority to administer the services and programs for the blind and visually impaired.

History. Acts 1983, No. 481, § 1; A.S.A. 1947, § 5-939.

CASE NOTES

Cited: Arkansas Dep't of Human Servs. v. Clark, 304 Ark. 403, 802 S.W.2d 461 (1991).

25-10-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Blind", for the purposes of qualification for appointment as a member of the Board of the Division of State Services for the Blind within the Department of Human Services, means a person having not more than $\frac{20}{200}$ visual acuity in the better eye with corrective lenses, or visual acuity greater than $\frac{20}{200}$, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle of no greater than twenty degrees (20°); and

(2) "Visually handicapped", as a term, shall be defined by regulations of the board, and the board shall have sole and exclusive authority to define and determine whether any person is "blind" or "visually

handicapped" for purposes of determining eligibility to participate in government programs under this subchapter.

History. Acts 1983, No. 481, § 4;
A.S.A. 1947, § 5-942.

25-10-203. Exemption.

No provision of this subchapter shall apply to any program or service currently operated or administered by the Arkansas School for the Blind or the State Library Board, and this subchapter shall not amend or repeal any statutory provision governing the operation of the School for the Blind or the Arkansas State Library.

History. Acts 1983, No. 481, § 7;
A.S.A. 1947, § 5-945.

25-10-204. Powers and duties.

(a)(1) The Division of State Services for the Blind within the Department of Human Services is designated as the agency of the State of Arkansas primarily responsible for carrying out state and federal programs for rehabilitative social services or business enterprises for blind and visually handicapped citizens of the state, including, but not limited to, those programs and services established pursuant to the Rehabilitation Act of 1973, as amended, Pub. L. 93-112, and any subsequent legislation to Pub. L. 93-112. The division, as the designated agency, shall receive the full, complete, effective, and timely cooperation of any and all other agencies, organizations, or offices receiving financial support by or through the State of Arkansas, either directly or indirectly, and in any amount.

(2) The division shall be responsible for the administration of all functions and programs relating or pertaining to rehabilitation and social services, and business enterprise services for the blind, including the organized vending facility program as now established, for which the division shall serve as the licensing agency for the blind.

(b) The division is designated as the unit of the state government of Arkansas primarily responsible for assuring that citizens with disabling visual impairments shall receive the full benefit of services for which federal grants-in-aid assistance in any form, under any title, and from any source shall be available from time to time to accomplish the purposes of this subchapter.

(c) The division is authorized to enter into such contracts with the federal government, to submit such plans to the federal government, and to adopt such methods of administration as the federal government may require in order to assure maximum federal financial involvement in those services and functions which the division is authorized to administer directly.

(d)(1) The division may assist all other state agencies, departments, offices, or committees traditionally and legally responsible for the direct

administration of services which bear upon the objective of preventing or ameliorating disabling visual impairments throughout the State of Arkansas by providing technical advice and consultation to those state organizations, reviewing plans and program material developed and maintained within those state organizations, making appropriate recommendations, and carrying out the evaluation functions previously assigned to the Office for the Blind and Visually Impaired.

(2) Where it is mutually determined by the division and one (1) or more other state agencies that it would be to the best interest of the taxpayers of the state or to the advantage of individuals with disabling visual impairments for the other agency or agencies directly to provide a particular service which tends to prevent or ameliorate disabling visual impairments, the division and the state agency or agencies involved are authorized to enter into interagency contracts or agreements which might reasonably be necessary to assure that the service is provided effectively and in a manner consistent with maximally efficient use of available resources.

History. Acts 1983, No. 481, §§ 5, 6; A.S.A. 1947, §§ 5-943, 5-944.

Publisher's Notes. Acts 1983, No. 481, § 5, in part, transferred the Office for the Blind and Visually Impaired of the Department of Human Services, and all its

powers, personnel, equipment, etc., to the Division of State Services for the Blind.

U.S. Code. The Rehabilitation Act of 1973, referred to in this section, is codified as 29 U.S.C. § 701 et seq.

25-10-205. Board of the Division of State Services for the Blind.

(a) There is created a board to be known as the Board of the Division of State Services for the Blind, to be constituted as follows:

(1)(A) The board shall be composed of seven (7) members appointed by the Governor with the advice and consent of the Senate.

(B) One (1) member shall be appointed from each list of qualified persons nominated in separate lists furnished by each of the following:

- (i) The National Federation of the Blind of Arkansas;
- (ii) The American Council of the Blind of Arkansas;
- (iii) The Arkansas Lions Clubs Council of Governors, who shall be a member of a member club of the International Association of Lions Clubs within Multiple District Seven for Arkansas;
- (iv) The American Association for Workers for the Blind; and
- (v) The Arkansas School for the Blind.

(C) The Governor shall appoint two (2) at-large members.

(D) One (1) or more of the members of the board shall be at least fifty-five (55) years of age.

(E) At least four (4) members of the board shall be blind as defined in § 25-10-202.

(2) Any board member whose term has expired shall continue to serve as a member of the board until the member's successor is appointed and qualified;

(3) All board members shall be appointed for terms of four (4) years, and no person may serve more than two (2) consecutive full terms; and

(4) All vacancies which occur for any reason shall be filled by appointment by the Governor, and any interim appointments shall be limited to the unexpired term of the position vacated. Any person appointed to fill a vacancy shall meet the qualifications for appointment held by his or her predecessor on the board.

(b) The Executive Director of the Arkansas Enterprises for the Blind, the Superintendent of the Arkansas School for the Blind, one (1) representative appointed by the American Association of Workers for the Blind of Arkansas, one (1) representative appointed by the Blinded Veterans of Arkansas, and one (1) representative appointed by the Arkansas Association of Blind Business Managers shall serve as ex officio nonvoting members of the board. Additional ex officio nonvoting members may be appointed by the Governor at the request of a majority of the board.

(c) Each member or ex officio member appointed to the board, before entering upon the duties of office, shall take the oath prescribed by the Constitution of the State of Arkansas for state officers and shall file the oath in the office of the Secretary of State, who shall thereupon issue to the member a certificate of appointment.

(d) Upon recommendation of a majority of the regular board members, the Governor may remove any member of the board at any time for misconduct, incompetency, neglect of duty, or any other good cause as may be determined by the board.

(e) The board members shall not receive compensation for performance of their duties. However, they may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) After the members of the board have been duly appointed and are serving, the board shall choose a chair from among the regular members as presiding officer, who shall serve for a term of two (2) years. The board shall also elect from among its regular members a vice chair and a secretary, who shall serve for a term of one (1) year.

(g) The board shall meet at least quarterly at those times and places as it may determine from time to time.

(h) The board shall employ a commissioner, subject to the approval of the Governor, qualified by experience to administer and implement the policies and directives of the board. The board may employ or appoint any additional personnel necessary to carry out the functions, duties, and responsibilities entrusted to the division in accordance with the requirements of law and within the limits of available appropriations.

History. Acts 1983, No. 481, §§ 2, 3; A.S.A. 1947, §§ 5-940, 5-941; Acts 1997, No. 250, § 235.

Publisher's Notes. Acts 1983, No. 481, § 2, provided in part that, on or before July 10, 1983, the Governor would appoint the initial members of the board. Four

members, including the members representing the Lion's Club, the American Council of the Blind for Arkansas, the National Federation of the Blind of Arkansas, and the American Association of Workers for the Blind, would be appointed for six-year terms expiring June 30, 1989.

The remaining three members would be appointed for four-year terms expiring June 30, 1987. **Amendments.** The 1997 amendment rewrote (e).

25-10-206. Legal counsel.

The Division of State Services for the Blind within the Department of Human Services or any employees or committees thereof shall be entitled to the services of the Attorney General in connection with the operation of the affairs of the division.

History. Acts 1983, No. 481, § 9;
A.S.A. 1947, § 5-947.

25-10-207. Division of State Services for the Blind Fund.

Any sums provided by the General Assembly for the purposes of this subchapter shall be kept by the Treasurer of State in a fund to be designated as the State Services for the Blind Fund Account of the Department of Human Services Fund and shall be used to carry out the particular purposes assigned to it in this subchapter.

History. Acts 1983, No. 481, § 8;
A.S.A. 1947, § 5-946; Acts 1993, No. 403,
§ 20.

25-10-208. State services for the blind — Supplemental insurance.

Staff members who transport blind and visually impaired persons on official state business of the Division of State Services for the Blind within the Department of Human Services are entitled to reimbursement for supplemental insurance costs. Costs incurred for supplemental liability automobile insurance above the minimum required by law for the purpose of including coverage for work-related activities shall be reimbursed through standard travel procedures annually, not to exceed fifty dollars (\$50.00) per year.

History. Acts 1995, No. 1198, § 68. may not apply to this section which was
A.C.R.C. Notes. References to “this enacted subsequently.
subchapter” in §§ 25-10-201 — 25-10-207

SUBCHAPTER 3 — DIVISION OF YOUTH SERVICES

SECTION.

25-10-301 — 25-10-305. [Repealed.]

25-10-301 — 25-10-305. [Repealed.]

Publisher’s Notes. These sections, concerning the former Division of Youth Services of the Department of Human Services, were repealed by Acts 1995, No. 1261, § 18. The sections were derived from the following sources:
25-10-301. Acts 1993, No. 1296, § 1.
25-10-302. Acts 1993, No. 1296, §§ 2, 3.

25-10-303. Acts 1993, No. 1296, § 3.
 25-10-304. Acts 1993, No. 1296, § 3.

25-10-305. Acts 1993, No. 1296, § 3.
 For present law, see § 9-28-201 et seq.

SUBCHAPTER 4 — DEPARTMENT OF HUMAN SERVICES STATE INSTITUTIONAL SYSTEM

SECTION.

25-10-401. Creation.

25-10-402. Purpose — Guidelines.

SECTION.

25-10-403. Members.

A.C.R.C. Notes. Acts 1995, No. 1162, § 3 provided: "All powers vested in the State Hospital Board and Arkansas Youth Services Board are hereby transferred by type one transfer to the DHS State Institutional System Board, and any reference to the State Hospital Board or the Arkan-

sas Youth Services Board contained in the Arkansas Code of 1987 Annotated, shall be deemed to refer to the DHS State Institutional System Board."

Cross References. Division of Youth Services, § 9-28-201 et seq.

25-10-401. Creation.

The state institutions of the Department of Human Services, known as the State Hospital for the Mentally Ill at Little Rock, the long-term care facility at Benton, the George W. Jackson Mental Health Center at Jonesboro, the youth services centers located at Alexander and North Little Rock, and all other facilities owned and operated by the Department of Human Services for youth services or mental health treatment are hereby consolidated to form the Department of Human Services State Institutional System.

History. Acts 1995, No. 1162, § 1; 1997, No. 1333, § 2.

Amendments. The 1997 amendment deleted "and" following "Jonesboro"; and

added "and all other facilities owned and operated by the Department of Human Services for youth services or mental health treatment."

25-10-402. Purpose — Guidelines.

(a) The Department of Human Services State Institutional System Board is hereby established to manage the Department of Human Services State Institutional System, as provided and intended by Arkansas Constitution, Amendment 33.

(b) The board shall perform its functions and duties in accordance with the general guidelines, policies, and regulations of the Department of Human Services governing divisions, offices, sections, or units within the department with respect to budgets, personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the Director of the Department of Human Services.

History. Acts 1995, No. 1162, § 2.

A.C.R.C. Notes. Acts 1995, No. 1162, § 2 provided in part: "The State Hospital

Board and the Arkansas Youth Services Board are hereby abolished."

25-10-403. Members.

(a) The Department of Human Services State Institutional System Board shall consist of a membership of seven (7).

(b) The individual members will be appointed by the Governor.

History. Acts 1995, No. 1162, § 4.

CHAPTER 11

DEPARTMENT OF ECONOMIC DEVELOPMENT

SECTION.

25-11-101. Creation — Director — Organization — Personnel.

SECTION.

25-11-102. Arkansas Economic Development Commission.

Cross References. Arkansas Energy Office Division, § 15-10-203.

Enterprise zones, § 15-4-1701 et seq.

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 65, § 10: approved Feb. 7, 1979. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly that the State of Arkansas has had heretofore an inadequate program for the economic development of the State and its several sections; that on account of such inadequate pro-

gram the State of Arkansas has been unable to provide for its inhabitants sufficient opportunities in agriculture and industry; that unless an adequate program for the economic development of the State be immediately undertaken the State of Arkansas will suffer immediate and irreparable further loss in the opportunity for economic expansion; and that only by the passage of this Act and giving immediate effect to its provisions can the State of Arkansas further secure for its inhabitants opportunities for economic development. An emergency, therefore, is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage."

Acts 1981, No. 41, § 10: Feb. 10, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Industrial Development Commission as established by Act 404 of 1955 rendered great service to the State of Arkansas in developing programs, objectives, and goals for the industrial development of this State, and that the "AIDC" emblem became symbolic, not only in this State but throughout the Nation, of Arkansas' outstanding industrial and economic potential and growth; and that the reestablishment of the Arkansas Department of Industrial Development and the Arkansas Industrial Development Commission (AIDC) is essential to

the State in gaining the continuing advantages of the economic progress instituted more than a quarter of a century ago; and that the immediate passage of this Act is necessary to accomplish said purposes and to provide means for accelerated progress in the economic development of this State, thereby providing for increased

payrolls, job opportunities, and tax income for the support of the public services of this State. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

25-11-101. Creation — Director — Organization — Personnel.

(a) There is created a Department of Economic Development.

(b) The executive head of the department shall be the Director of the Department of Economic Development. The director shall be appointed by the Governor, with the advice of the Arkansas Economic Development Commission and the consent of the Senate, and shall serve at the pleasure of the Governor.

(c) The department shall consist of the divisions which may be necessary to fulfill its purposes and which may be created by law and placed under the department.

(d) The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All other personnel of the department shall be employed by and shall serve at the pleasure of the director. However, nothing in this section shall be so construed as to reduce any right which an employee of the department shall have under any civil service or merit system.

(e) Each division of the department shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

History. Acts 1971, No. 38, § 6; 1979, No. 65, § 2; 1981, No. 41, § 2; A.S.A. 1947, § 5-906; Acts 1997, No. 540, § 49.

Publisher's Notes. Acts 1971, No. 38, § 6, which enacted this section, created a Department of Industrial Development into which the Arkansas Industrial Development Commission, created by § 15-4-101 et seq., was transferred by a type 4 transfer.

Acts 1979, No. 65, § 2, amended this section to create a Department of Economic Development into which the Department of Industrial Development and the Arkansas Industrial Development Commission were transferred by a type 3 transfer. The amendment also created an Arkansas Economic Development Com-

mission whose powers, membership, etc., were to be as specified in § 15-4-101 et seq. governing the former Arkansas Industrial Development Commission.

Acts 1981, No. 41, § 2, amended the section to create a Department of Industrial Development into which the Arkansas Department of Economic Development and the Arkansas Economic Development Commission were transferred by a type 3 transfer.

Amendments. The 1997 amendment substituted "Department of Economic Development" for "Department of Industrial Development" throughout the section; and substituted "Arkansas Economic Development Commission" for "Arkansas Industrial Development Commission" in (b).

25-11-102. Arkansas Economic Development Commission.

There is created an Arkansas Economic Development Commission, whose membership, authorities, and powers shall be as specified in §§ 15-4-201 — 15-4-204, 15-4-209, 15-4-212, and 15-4-501 — 15-4-525.

History. Acts 1971, No. 38, § 6; 1979, No. 65, § 2; 1981, No. 41, § 2; A.S.A. 1947, § 5-906; Acts 1997, No. 540, § 50.

Publisher's Notes. Regarding previous transfers of the commission, see Publisher's Notes to § 25-11-101.

Amendments. The 1997 amendment substituted "Arkansas Economic Development Commission" for "Arkansas Industrial Development Commission."

CHAPTER 12**DEPARTMENT OF LABOR****SECTION.**

25-12-101. Continuation — Director —
Organization — Personnel.

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote econ-

omies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

25-12-101. Continuation — Director — Organization — Personnel.

(a) The Department of Labor, created by § 11-2-101 et seq., is continued.

(b) The executive head of the department shall be the Director of the Department of Labor. The director shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure of the Governor.

(c) The department shall consist of those divisions which existed as of July 1, 1971, and any other divisions which may be created by law and placed under the department.

(d) The director, with the advice of and consent of the Governor, shall appoint the heads of the respective divisions. All other personnel of the department shall be employed by and serve at the pleasure of the

director. Provided, nothing in this section shall be so construed as to reduce any right which an employee of the department may have under any civil service or merit system.

(e) Each division of the department shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

History. Acts 1971, No. 38, § 15; A.S.A. 1947, § 5-915.

Publisher's Notes. Acts 1971, No. 38, § 15, provided, in part, that the Office of the State Mine Inspector (§ 11-7-201 et seq.) was transferred to the Department of Labor by a type 3 transfer. It further provided that the Employment Security

Division (§ 11-10-301 et seq.) would remain intact as the Employment Security Division of the Department of Labor. Pursuant to Acts 1991, No. 100, the name of the Employment Security Division has been changed to the Arkansas Employment Security Department.

CHAPTER 13

DEPARTMENT OF PARKS AND TOURISM

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. RETIREMENT AND RELOCATION DIVISION. [REPEALED.]
3. RETIREMENT AND RELOCATION PROGRAM. [REPEALED.]

A.C.R.C. Notes. Acts 1995, No. 1038, § 39 provided: "CASH PRIZES. The Department of Parks & Tourism is hereby authorized to award merchandise, gift certificates and cash prizes to contestants in various special events authorized by the Director of State Parks. Such prizes may be awarded to the 1st, 2nd and 3rd prize winners and shall be payable from the maintenance and operation line item of the Parks Cash Funds/Ozark Folk Center Cash Funds. The cash prizes, in aggregate, for all contests, shall not exceed \$5,000 per fiscal year from each fund."

Acts 1997, No. 470, § 30, provided: "The Department of Parks & Tourism is hereby authorized to award merchandise, gift certificates and cash prizes to contestants in various special events authorized by the Director of State Parks. Such prizes may be awarded to the 1st, 2nd and 3rd prize

winners and shall be payable from the maintenance and operation line item of the Parks Cash Funds/Ozark Folk Center Cash Funds. The cash prizes, in aggregate, for all contests, shall not exceed \$5,000 per fiscal year from each fund."

Acts 2001, No. 1674, § 35, provided: "CASH PRIZES — STATE PARKS. The Department of Parks & Tourism is hereby authorized to award merchandise, gift certificates and cash prizes to contestants in various special events authorized by the Director of State Parks. Such prizes may be awarded to the 1st, 2nd and 3rd prize winners and shall be payable from the maintenance and operation line item of the Parks Cash Fund. The cash prizes, in aggregate, for all contests, shall not exceed \$10,000 per fiscal year. The provisions of this section shall be in effect only from July 1, 2001 through June 30, 2003."

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 25-13-101. Creation — Director — Organization — Personnel.
- 25-13-102. Great River Road Division.

SECTION.

- 25-13-103. Payment of gratuities.
- 25-13-104. Extra help restriction.

Effective Dates. Acts 1971, No. 38, §§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 496, § 8: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1975 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1975 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1975."

Acts 1993, No. 728, § 53: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 1038, § 50: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

25-13-101. Creation — Director — Organization — Personnel.

(a) There is created a Department of Parks and Tourism.

(b) The executive head of the department shall be the Director of the Department of Parks and Tourism. The director shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure of the Governor.

(c) The department shall consist of those divisions which constituted the State Parks, Recreation, and Travel Commission as of July 1, 1971, and any other divisions which may be created by law and placed under the department.

(d) The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All other personnel of the department shall be employed by and serve at the pleasure of the director. Provided, nothing in this section shall be so construed as to reduce any right which an employee of the department shall have under any civil service or merit system.

(e) Each division of the department shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

History. Acts 1971, No. 38, § 7; A.S.A. 1947, § 5-907.

A.C.R.C. Notes. Acts 1997, No. 470, § 35, provided: "There is hereby transferred all authority, rights, powers, duties, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, privileges and jurisdiction in conformance with (A.C.A. 13-9-101 et seq.) belonging or granted to the Arkansas Entertainers Hall of Fame Board to the Department of Parks and Tourism."

Publisher's Notes. While this section, which codifies the general and permanent provisions of Acts 1971, No. 38, § 7, provides for appointment of the director by the Governor, § 25-2-107 governing type 4 transfers indicates directors of transferred commissions are nominated by the commission subject to confirmation by the Governor. See also § 15-11-205 governing selection of the director by the State Parks, Recreation, and Travel Commission.

Acts 1971, No. 38, § 7, in part, transferred the State Parks, Recreation, and Travel Commission (§ 15-11-201 et seq.) to the Department of Parks and Tourism by a type 4 transfer. It also transferred the following agencies to the department by type 1 transfers: the Prairie Grove Battle-

field Commission (§ 13-7-401 et seq.); the Arkansas Commemorative Commission and the Arkansas Territorial Capitol Restoration Commission (later transferred to the Department of Arkansas Heritage); the Vicksburg Confederate Memorial Commission and the Arkansas Battle Fields Commission, whose governing legislation (Acts 1947, No. 21 and Acts 1953, No. 556, respectively) had already been repealed by Acts 1963, No. 207; the Arkansas History Commission (§ 13-3-101 et seq.); the Stonewall Jackson Memorial Commission; and the Poison Springs State Park.

Acts 1975, No. 554 transferred the land, improvements, and administration of the Confederate State Capitol, located in Washington, Hempstead County, Arkansas, from the Arkansas Commemorative Commission to the Department of Parks and Tourism.

Acts 1979, No. 832, § 8, transferred the powers and duties of the Arkansas Museum and Cultural Commission to the Department of Parks and Tourism by a type 2 transfer.

Acts 1981, No. 764, § 4, transferred the duties of the Department of Local Services (abolished), with respect to the Heritage, Conservation, and Recreation Service

Program and the Statewide Comprehensive Outdoor Recreation Plan Program, to the Department of Parks and Tourism.

25-13-102. Great River Road Division.

(a) The Mississippi River Parkway Commission of Arkansas, as established pursuant to § 27-69-201 et seq., shall be located in the Great River Road Division created hereby.

(b) The Director of the Department of Parks and Tourism, with the advice and consent of the Governor and the Chairman of the National Mississippi River Parkway Planning Commission, shall appoint the head of the Great River Road Division of the Department of Parks and Tourism.

History. Acts 1975, No. 496, § 1; A.S.A. 1947, § 5-907.1.

Publisher's Notes. Acts 1975, No. 496, § 1, in part, transferred the Mississippi River Parkway Commission (§ 27-69-201 et seq.) to the Department of Parks and Tourism by a type 1 transfer.

25-13-103. Payment of gratuities.

The Department of Parks and Tourism, which from time to time will use the services of hotels and restaurants for conferences, conventions, meetings, advertising promotions, news blitzes, and other group functions, is authorized to pay such reasonable charges of involuntary gratuities for group functions as a part of the cost of services.

History. Acts 1993, No. 728, § 37; 1995, No. 1038, § 42.

A.C.R.C. Notes. Former § 25-13-103, concerning the payment of gratuities, is deemed to be superseded by this section. The former section was derived from Acts 1989 (1st Ex. Sess.), No. 275, § 37. Similar provisions which were also codified as § 25-13-103, and previously superseded, were derived from Acts 1985, No. 761, § 24 and from Acts 1987, No. 931, § 28.

25-13-104. Extra help restriction.

No employee of the Parks Division of the Department of Parks and Tourism who is employed as extra help may receive an amount to exceed eighty-five percent (85%) of the maximum annual salary for a comparable position as authorized under § 21-5-201 et seq. during any fiscal year, nor shall such an employee be employed for a period of time to exceed one thousand eight hundred (1,800) hours in any single fiscal year.

History. Acts 1993, No. 728, § 32; 1995, No. 1038, § 37.

SUBCHAPTER 2 — RETIREMENT AND RELOCATION DIVISION

SECTION.

25-13-201 — 25-13-204. [Repealed.]

25-13-201 — 25-13-204. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207, the amendment of § 25-13-204 by Acts 1997, No. 250 is superseded by the repeal of this subchapter by Acts 1997, No. 609.

Publisher's Notes. This subchapter was repealed by Acts 1997, No. 609, § 9.

The subchapter was derived from the following sources:

- 25-13-201. Acts 1995, No. 1255, § 1.
- 25-13-202. Acts 1995, No. 1255, § 2.
- 25-13-203. Acts 1995, No. 1255, § 3.
- 25-13-204. Acts 1995, No. 1255, §§ 4-6; 1997, No. 250, § 236.

SUBCHAPTER 3 — RETIREMENT AND RELOCATION PROGRAM

SECTION.

25-13-301, 25-13-302. [Repealed.]

Effective Dates. Acts 1999, No. 1508, § 19: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act makes various technical corrections in the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Cross References. Regional tourist promotion agencies, § 15-11-401 et seq.

25-13-301, 25-13-302. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1999, No. 1508, § 14. The subchapter was derived from the following sources:

- 25-13-301. Acts 1997, No. 609, § 1.
- 25-13-302. Acts 1997, No. 609, § 2.

CHAPTER 14

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION.

25-14-101. Creation — Director — Organization — Personnel.

SECTION.

25-14-102. Hazardous duty compensation.

Cross References. Natural resources committee, § 22-5-804.

Effective Dates. Acts 1971, No. 38,

§§ 23, 24: reorganizations under act to be completed on or before July 1, 1971. Act effective Feb. 4, 1971. Emergency clause

provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible state government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the government by the consolidation of various departments, boards, and commissions; and that only by the immediate passage of this act may procedures be established for effectuating a more responsive, responsible, and economic state government. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1191, § 44: July 1, 1995.

Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

25-14-101. Creation — Director — Organization — Personnel.

(a) There is created an Arkansas Department of Environmental Quality.

(b) The executive head of the department shall be the Director of the Arkansas Department of Environmental Quality. The director shall be nominated by the Arkansas Pollution Control and Ecology Commission and confirmed by the Governor, with the consent of the Senate, and shall serve at the pleasure of the Governor.

(c)(1) The department shall consist of the divisions found in the commission as of July 1, 1971, and any other divisions which may be created by law and placed under the department.

(2) There shall be created a new Division of Environmental Preservation which shall be responsible for reviewing and making specific ecologically oriented recommendations on all plans, programs, and projects of all other state departments, divisions, agencies, and commissions and upon all federal plans, programs, and projects affecting this state. To this end, all other departments, divisions, agencies, and commissions within this state are directed to cooperate with the department in fulfilling the department's responsibility defined in this chapter.

(3) Nothing in this subsection shall be construed to prevent the director, with the advice and consent of the Governor and the commission, from organizing the department into the divisions and units which may be necessary to effectively and efficiently administer the statutory responsibilities of the department.

(d) The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All of the personnel of the

department shall be employed by and serve at the pleasure of the director. Nothing in this section shall be so construed as to reduce any right which an employee in the department shall have under any civil service or merit system.

(e) Each division of the department shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

History. Acts 1971, No. 38, § 8; 1981, No. 834, § 1; A.S.A. 1947, § 5-903; Acts 1999, No. 1164, § 183.

A.C.R.C. Notes. Acts 1997, No. 1219, § 2, provided: "Arkansas Department of Pollution Control & Ecology' renamed to 'Arkansas Department of Environmental Quality'. (a) Effective March 31, 1999, the 'Arkansas Department of Pollution Control & Ecology' or 'Department,' as it is referred to or empowered throughout the Arkansas Code Annotated, is hereby renamed. In its place, the 'Arkansas Department of Environmental Quality' is hereby established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Department of Pollution Control & Ecology. The Director of the Arkansas Department of Pollution Control & Ecology is directed to identify

and revise all inter-agency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change by March 31, 1999.

"(b) Nothing in this Act shall be construed as impairing the powers and authorities of the Arkansas Department of Pollution Control and Ecology prior to the effective date of the name change."

Publisher's Notes. Acts 1971, No. 38, § 8, in part, transferred the Pollution Control Commission (§ 8-4-101 et seq.) to the Department of Pollution Control and Ecology by a type 4 transfer.

Amendments. The 1999 amendment substituted "Arkansas Department of Environmental Quality" for "Department of Pollution Control and Ecology" throughout this section; and made stylistic changes.

CASE NOTES

Cited: United States v. Vertac Chem. Corp., 489 F. Supp. 870 (E.D. Ark. 1980).

25-14-102. Hazardous duty compensation.

(a) State and federal law and statute mandate regulatory inspection to protect the environment and the health of the citizens of the State of Arkansas. It is further recognized that many substances which may be encountered are suspected carcinogens or mutagens and may create harmful health effects from either short-term or long-term exposure. This special pay is to compensate the employees for the increased risk of personal injury.

(b)(1) The Arkansas Department of Environmental Quality is hereby authorized to provide special compensation to certain employees for each full pay period of eighty (80) hours worked in a job which requires contact with inspection sites, emergency sites, or other sites where exposure to potentially hazardous substances is possible.

(2) This covers employees who may be exposed to potentially hazardous substances during the daily performance of their job duties.

(3) Eligible classifications are restricted to:

- (A) Pollution Control Inspector II;
 - (B) Pollution Control Hazardous Waste Inspector;
 - (C) Pollution Control Inspector Supervisor; and
 - (D) Hazardous Waste Inspector Supervisor.
- (c)(1) The rate of pay will be five and one-half percent (5.5%) above the regular authorized pay or rate of pay.
- (2) Payment will be controlled through personnel actions by the Personnel Section of Administrative Services.
- (3) The rate of pay for individuals who work less than a full pay period of eighty (80) hours or transfer to other work areas not defined in this section, or both, will not receive any enhanced rate of pay for that or subsequent pay periods.
- (d) A monthly report shall be made to the Legislative Council describing all payments made to employees under the provisions of this section.

History. Acts 1995, No. 1191, § 33; 1999, No. 1164, § 184.

A.C.R.C. Notes. Acts 1997, No. 1219, § 2, provided: “‘Arkansas Department of Pollution Control & Ecology’ renamed to ‘Arkansas Department of Environmental Quality’. (a) Effective March 31, 1999, the ‘Arkansas Department of Pollution Control & Ecology’ or ‘Department,’ as it is referred to or empowered throughout the Arkansas Code Annotated, is hereby renamed. In its place, the ‘Arkansas Department of Environmental Quality’ is hereby established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Department of Pollution Control & Ecology. The Director

of the Arkansas Department of Pollution Control & Ecology is directed to identify and revise all inter-agency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change by March 31, 1999.

“(b) Nothing in this Act shall be construed as impairing the powers and authorities of the Arkansas Department of Pollution Control and Ecology prior to the effective date of the name change.”

Amendments. The 1999 amendment substituted “The Arkansas Department of Environmental Quality” for “The Department of Pollution Control and Ecology” in (b)(1).

CHAPTER 15

ADMINISTRATIVE PROCEDURES

- SUBCHAPTER.
- 1. GENERAL PROVISIONS.
 - 2. ADMINISTRATIVE PROCEDURE ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

- SECTION.
- 25-15-101. Interpreters generally.
 - 25-15-102. Interpreters for the deaf.
 - 25-15-103. Stay of proceedings in which party or attorney is a

- SECTION.
- member or an employee of either branch of the General Assembly.
 - 25-15-104. Subpoena powers.

Effective Dates. Acts 1979, No. 664, § 5: Mar. 30, 1979. Emergency clause provided: “It is hereby found and determined by the Seventy-Second General Assembly

that there is an immediate need to provide qualified interpreters for deaf persons at administrative, civil and criminal proceedings and that this Act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 312, § 5: became law without Governor's signature, Mar. 5, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that this Act is necessary to clarify the authority granted by the legislative branch of government to the judicial branch of government, and that this Act is in keeping with the separation of powers provision of Section 2 of Article 4 of the Arkansas Constitution, and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 469, § 7: Mar. 12, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an immediate need to protect the confidentiality of privileged communications between qualified inter-

preters for deaf and hearing-impaired persons occurring at administrative, civil and criminal proceedings and that this act is immediately necessary. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-15-101. Interpreters generally.

(a) Every person who cannot speak or understand the English language or who, because of hearing, speaking, or other impairment, has difficulty in communicating with other persons, and who is a party in any administrative proceeding or a witness therein, shall be entitled to an interpreter to assist that person throughout the proceeding.

(b) An interpreter may be retained by the party or witness himself or herself, or, if the person is unable to pay for an interpreter, may be appointed by the administrative board or agency before which the proceeding is pending. If an interpreter is appointed by the board or agency, the fee for the services of the interpreter shall be set by the board or agency and be paid from any funds available to the board or agency or be paid in any other manner ordered by the board or agency.

(c) Any administrative agency may inquire into the qualifications and integrity of any interpreter and may disqualify any person for cause from serving as an interpreter.

(d) Every interpreter for another person who is either a party or a witness in an administrative proceeding as referred to in this section shall take the following oath:

“Do you solemnly swear (or affirm) that you will justly, truly, and impartially interpret to the oath about to be administered to him (her), and the questions which may be asked him (her), and the answers that he (she) shall give to such questions, relative to the cause now under consideration before this board (agency), so help you God (or under the pains and penalties of perjury)?”

History. Acts 1973, No. 555, § 1;
A.S.A. 1947, § 5-715.

25-15-102. Interpreters for the deaf.

(a) For the purpose of appointing an interpreter for deaf persons under § 25-15-101:

(1) “Any administrative proceeding” means any proceeding of any department, board, commission, agency, committee, or licensing authority of the state or of any political subdivision or municipality, and it shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret his or her testimony or statements;

(2)(A) “Oral interpreter” means a person who interprets language through facial and lip movements only and who does not use manual communication.

(B) An oral interpreter shall be provided upon the request of a deaf person who does not communicate in sign language.

(C) The right of a deaf person to an interpreter may not be waived except by a deaf person who does not use sign language and who initiates the request for waiver in writing. The waiver is subject to approval of counsel to the deaf person, if existent, and is subject to approval of the appointing authority; and

(3)(A) “Qualified interpreter” means an interpreter certified by the National Registry of Interpreters for the Deaf, Arkansas Registry of Interpreters for the Deaf, or, in the event an interpreter so certified is not available, an interpreter who is otherwise qualified.

(B) Efforts to obtain the services of a qualified interpreter certified with a Legal Skills Certificate or a Comprehensive Skills Certificate will be made prior to accepting services of an interpreter with lesser certification.

(C) No qualified interpreter shall be appointed unless the appointing authority and the deaf person make a preliminary determination that the interpreter is able to readily communicate with the deaf person and is able to accurately interpret the statements of the deaf person and interpret the proceedings in which a deaf person may be involved.

(D) Every deaf person entitled to an interpreter under § 25-15-101 shall be entitled to a qualified interpreter as defined by this subsection.

(b) Every deaf person whose appearance before a proceeding entitles him or her to an interpreter should notify the appointing authority of his or her need prior to any appearance and should request at that time the services of an interpreter. When a deaf person reasonably expects the need for an interpreter to be for a period greater than a single day, he or she should notify the appointing authority. This notification shall be sufficient for the duration of his or her participation in the proceedings.

(c) An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of his or her deafness when the appointing authority has reason to believe that the person is not deaf.

(d) It shall be the responsibility of the appointing authority to channel requests for qualified interpreters through:

(1) The Arkansas Registry of Interpreters for the Deaf;

(2) The Office for the Deaf and Hearing Impaired of the Arkansas Rehabilitation Services of the Division of Vocational and Technical Education of the Department of Education;

(3) The University of Arkansas at Little Rock Interpreter Training Program; or

(4) Any community resource wherein the appointing authority or the deaf person is knowledgeable that qualified interpreters can be found.

(e) Before a qualified interpreter participates in any proceedings subsequent to an appointment under the provisions of this section, the interpreter shall make an oath or affirmation that he or she will make a true interpretation in an understandable manner to the deaf person for whom he or she is appointed and that the interpreter will interpret the statements of the deaf person desiring that statements be made, in the English language, to the best of the interpreter's skill and judgment.

(f) The appointing authority shall provide recess periods as necessary for the interpreter when the interpreter so indicates.

(g) Any and all information that the interpreter gathers, learns from, or relays to the deaf person or person who is unable to communicate in English pertaining to any administrative, civil, or criminal proceeding shall at all times remain confidential and privileged, on an equal basis with the attorney-client privilege, unless the deaf person or person who is unable to communicate in English desires that such information be communicated to other persons.

(h) An interpreter appointed under the provisions of this section shall be entitled to a reasonable fee for his or her services. The fee shall be in accordance with standards established by the Arkansas Registry of Interpreters for the Deaf and in addition to actual expenses for travel and transportation. When the interpreter is appointed by a court, the fee shall be paid out of general county funds. When the interpreter is otherwise appointed, the fee shall be paid out of funds available to the appointing authority.

History. Acts 1979, No. 664, §§ 1, 2; A.S.A. 1947, §§ 5-715.1, 5-715.2; Acts 1991, No. 469, § 3.

Publisher's Notes. Acts 1979, No. 664, §§ 1, 2, are also codified as §§ 16-64-112, 16-89-105.

RESEARCH REFERENCES

UALR L.J. Survey—Evidence, 14
UALR L.J. 793.

25-15-103. Stay of proceedings in which party or attorney is a member or an employee of either branch of the General Assembly.

(a)(1) Any and all administrative hearings before an agency of this state in which any attorney for either party to any suit is the Lieutenant Governor, or a member of the Senate or the House of Representatives, or is a clerk or sergeant at arms or a doorkeeper of either branch of the General Assembly, and any and all administrative hearings before an agency of this state in which the Lieutenant Governor, or any member of the General Assembly, or clerk or sergeant at arms or doorkeeper of either branch of the General Assembly is a party, shall be stayed for not fewer than fifteen (15) days preceding the convening of the General Assembly and for thirty (30) days after its adjournment sine die, unless otherwise requested by any interested member of the General Assembly or interested officer or employee of the General Assembly.

(2) The motion for a continuance need not be reduced to writing.

(3) It is not necessary that notice be afforded to opposing counsel that a continuance is sought.

(b) Any and all administrative hearings before an agency of this state in which any attorney for either party to any suit is a member of the Legislative Council, the Legislative Joint Auditing Committee, or any interim committee of the General Assembly shall be stayed, or reset if scheduled, if the proceeding or hearing has been scheduled on the day immediately prior to, the day immediately after, or the day upon which the Legislative Council, Legislative Joint Auditing Committee, or any interim committee is meeting and if the attorney is a member of the committee which is meeting, or an alternate member attending in the place of a regular member, and the attorney requests the continuance of the court no fewer than three (3) days before the proceeding is to commence.

(c) The term "adjournment sine die" as used in this section means adjournment without the establishment of a day certain for reconvening.

(d) The provisions of this section shall be applicable in the case of special or extraordinary sessions of the General Assembly as well as regular sessions.

History. Acts 1981, No. 312, § 1; A.S.A. 1947, § 27-1401.1; Acts 1997, No. 1354, § 43.

Amendments. The 1997 amendment substituted "interim committee" for "joint interim committee" twice in (b).

25-15-104. Subpoena powers.

(a)(1) The following boards and commissions shall have the power to issue subpoenas and bring before the board or commission as a witness any person in this state:

- (A) Auctioneer's Licensing Board, § 17-17-201 et seq.;
 - (B) State Athletic Commission, § 17-22-201 et seq.;
 - (C) State Board of Cosmetology, § 17-26-201 et seq.;
 - (D) Arkansas Board of Examiners in Counseling, § 17-27-201 et seq.;
 - (E) State Board of Embalmers and Funeral Directors, § 17-29-201 et seq.;
 - (F) Arkansas State Board of Landscape Architects, § 17-36-201 et seq.;
 - (G) The Committee of Plumbing Examiners of the State Board of Health, § 17-38-202;
 - (H) Arkansas Social Work Licensing Board, § 17-103-201 et seq.;
 - (I) HVACR Licensing Board, § 17-33-201 et seq.;
 - (J) Liquefied Petroleum Gas Board, § 15-75-201 et seq.;
 - (K) Arkansas Judicial Discipline and Disability Commission, Arkansas Constitution, Amendment 66, and § 16-10-401 et seq.;
 - (L) Veterinary Medical Examining Board, § 17-101-201 et seq.;
 - (M) Arkansas Board of Dispensing Opticians, § 17-89-201 et seq.;
- and
- (N) State Board of Election Commissioners, § 7-4-101 et seq.

(2) These boards shall by regulation provide for the issuance of a subpoena upon the request of any party to a proceeding pending before the board or at the request of the board.

(3) The writ shall be in the name of the board, shall state the name of the board and the name of the proceeding, and shall command each person to whom it is directed to appear and give testimony at the time and place therein specified.

(4) The writ may require the witness to bring with him or her any book, writing, or other thing under his or her control which he or she is bound by law to produce in evidence.

(5) Service of the writ shall be in the manner as now provided by statute or rule for the service of subpoenas in civil cases.

(b)(1) A witness who has been served by subpoena in the manner provided by law and who shall have been paid or tendered the legal fees for travel and attendance as provided by law shall be obligated to attend for examination of the trial or cause pending before the board.

(2) In the event a witness shall have been served with subpoenas as herein provided and fails to attend the hearing in obedience to the subpoena, the board may apply to the circuit court of the county wherein the board is having its meeting for an order causing the arrest

of the witness and directing that the witness be brought before the court.

(3) The court shall have the power to punish the disobedient witness for contempt as provided by the Arkansas Rules of Civil Procedure.

(c) This section is intended to be supplemental and add the power to issue subpoenas to the various chapters of the Code which do not now provide the power to do so. This section shall not repeal any law or part of laws now in existence.

History. Acts 1993, No. 1286, § 1; 1995, No. 757, § 1; 1999, No. 1122, § 7; 2001, No. 617, § 22.

Publisher's Notes. The references to the code sections in Title 17 have been updated to reflect the 1995 realphabetization of the chapters in that title.

Amendments. The 1999 amendment substituted "§ 17-103-201 et seq." for "§ 17-46-201 et seq." in (a)(1)(H).

The 2001 amendment substituted "Arkansas State Board of Landscape Architects" for "Advisory Committee for Registration of Landscape Architects in the State of Arkansas" in (a)(1)(F).

SUBCHAPTER 2 — ADMINISTRATIVE PROCEDURE ACT

SECTION.

- 25-15-201. Title.
- 25-15-202. Definitions.
- 25-15-203. Rules — Required rules — Public inspection.
- 25-15-204. Rules — Procedure for adoption.
- 25-15-205. Rules — "The Arkansas Register".
- 25-15-206. Rules — Declaratory orders.
- 25-15-207. Rules — Actions for declaratory judgments.
- 25-15-208. Administrative adjudication — Procedures generally.
- 25-15-209. Administrative adjudication

SECTION.

- Communication by decision maker.
- 25-15-210. Administrative adjudication — Decisions.
- 25-15-211. Administrative adjudication — Licenses.
- 25-15-212. Administrative adjudication — Judicial review.
- 25-15-213. Hearings generally.
- 25-15-214. Failure of agency to act — Action by injured party.
- 25-15-215. Model rules.
- 25-15-216. Review of agency rules.
- 25-15-217. Alternative sanctions.

Publisher's Notes. For Comments regarding the Uniform Law Commissioner's Revised Model State Administrative Procedure Act, see Commentaries Volume B.

Preambles. Acts 1971, No. 316 contained a preamble which read: "Whereas, in order to clarify administrative procedures concerning the Employment Security Laws of Arkansas, and in order to correct omission of the Employment Security Division in the original Administrative Procedure Act of 1967; and

"Whereas, it will benefit the courts to clarify the administrative procedure now being followed by the courts on appeals relative to the Redevelopment Security Laws; and

"Whereas, the administrative proce-

dures set forth in § 81-1101, et seq., Arkansas Statutes (official) have been consistently followed for a long period of time and are now followed by the respective courts of appeal from the administrative procedures now outlined in the Employment Security Laws."

Effective Dates. Acts 1971, No. 316, § 2: Mar. 17, 1971. Emergency clause provided: "It is hereby determined by the General Assembly of the State of Arkansas that the orderly and consistent administrative procedures of the Employment Security Laws should not be in doubt as many of the unemployed and the employers in this state are affected by such procedure; and such law with many cases now pending before the administrative

sections provided for in the Employment Security Laws, and such procedures having provided adequate administrative procedures and remedies for many years; and in order to definitely clarify same; an emergency is hereby declared to exist and it being necessary for the public peace, health, and safety of the state this act shall be in full force and effect after its passage and approval."

Acts 1977, No. 349, § 4: Mar. 3, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the existing laws pertaining to license, revocation and suspension by the Child Care Facility Review Board permit the Board to revoke licenses without notice and without a hearing, which procedures are likely violative of the due process laws of the Constitution of the State Arkansas and of the United States; that this Act is designed to correct this undesirable situation by requiring the Child Care Facility Review Board to comply with the provisions of the Arkansas Administrative Procedure Law, and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 720, § 6: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1977 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1977 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 324, § 18: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-

Second General Assembly, that the effectiveness of this Act on July 1, 1979 is essential to the operation of the agency established in this Act and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1979 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1979."

Acts 1979, No. 704, § 2: Apr. 2, 1979. Emergency clause provided: "It is hereby found, determined and declared by the General Assembly that the orderly administration of justice presupposes a notice and hearing before the rights of individuals and of the people of the State of Arkansas are affected by judicial action and that, upon occasion, orders limiting the powers of administrative boards to protect the public from the wrongful and hurtful acts of practitioners have been issued by reviewing tribunals without notice and hearing, and that this Act is designed to correct this problem and should be given effect immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 709, § 4: March 20, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly of the State of Arkansas that inmates of the Department of Correction have numerous avenues of administrative due process; that it is not necessary to provide them with judicial review under the Arkansas Administrative Procedure Act; and that state funds could be saved by reducing the amount of money expended by the Department of Correction on legal fees to defend against these unnecessary administrative appeals by inmates. Therefore, in order to avoid the unnecessary expenditure of legal fees for defending the Department of Correction in the administrative appeal procedures, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be

in full force and effect from and after its passage and approval.

Acts 1989, No. 932, § 5: March 24, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that recent court interpretations have resulted in uncertainty for state agencies as to when administrative rules and regulations may become effective; that to extend the date of their effectiveness beyond twenty (20) days would work an undue hardship on implementation of such rules and regulations. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1075, § 25: July 1, 1991. Emergency clause provided: "It is hereby found and determined by Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 1083, § 5: Apr. 13, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that it is necessary for permit and license holders from the various state agencies to receive information from the agencies from which they hold permits when disciplinary proceedings are pending and that, therefore, immediate effect should be given to this measure and an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 533, § 8: Mar. 17, 1997. Emergency clause provided: "It is hereby

found and determined by the General Assembly that there are presently inadequate statutory guidelines for the codifications of the acts of the General Assembly; that this act establishes necessary guidelines; and that this act should go into effect immediately in order that the guidelines will be in effect for the codification of the acts of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 937, § 5: Mar. 31, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that under current law any person may file a complaint with a state occupational or professional licensing board concerning a licensee of the board; that inmates of the Department of Correction are currently permitted to file such complaints without having exhausted their remedies under the Department of Correction grievance process; that the inmates have filed numerous complaints that have not been substantiated and have resulted in an unnecessary waste of time by certain state licensing boards and substantial cost to the taxpayers of the state; and that the law should be amended immediately to require inmates of the Department of Correction to exhaust their remedies under the Department grievance process before filing complaints with state licensing boards. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1222, § 21: Apr. 8, 1999.

Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that it is essential to the effective and efficient administration of the Child Care Licensing program that the responsibility for reviewing appeals be placed in the Child Care Appeal Review Panel under the Department of Human Services, as soon as possible and that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is de-

clared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval of the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

Ark. L. Rev. Administrative Law — Taxpayer Status to Challenge Administrative Actions Under the Arkansas Administrative Procedure Act, 25 Ark. L. Rev. 160.

Judicial Review of Administrative Agencies in Arkansas, 25 Ark. L. Rev. 397.

Watkins, Access to Public Records Under the Arkansas Freedom of Information Act, 37 Ark. L. Rev. 741.

Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.

Antley, Judicial Review of Non-Court Decisions: A Constitutionally Based Examination of Arkansas' Review System, 49 Ark. L. Rev. 425.

C.J.S. 73 C.J.S., Pub. Admin. L., § 87 et seq.

UALR L.J. Survey of Arkansas Law: Administrative Law, 6 UALR L.J. 59.

Stafford, Separation of Powers and Arkansas Administrative Agencies: Distinguishing Judicial Power and Legislative Power, 7 UALR L.J. 279.

Survey — Miscellaneous, Federal Income Tax — Definition of "Trade or Business", 10 UALR L.J. 223.

Survey, Miscellaneous — Administrative Law, 13 UALR L.J. 379.

Antley, The "Appearance of Fairness" Versus "Actual Unfairness": Which Standard Should the Arkansas Courts Apply to Administrative Agencies?, 16 UALR L.J. 587.

CASE NOTES

ANALYSIS

Purpose.

Applicability.

Appellate review.

Purpose.

This subchapter has two purposes: to require certain designated state agencies to adopt and make public procedural rules, including methods whereby the public can make submissions or requests; and to afford adjudication rights in matters over which the agencies have jurisdiction. *Arkansas State Hwy. Comm'n v. Wood*, 264 Ark. 425, 572 S.W.2d 583 (1978).

This subchapter was never designed nor intended to create supervisory responsibility by the judicial branch of state government over the day-to-day actions of the

executive branch, including the hiring and firing of personnel, but rather, to establish procedures for hearings and notice (which meet due process requirements) in those functions of the executive branch which are basically adjudicatory or quasi-judicial, particularly with respect to rule making, the renewal or revocation of licenses, and situations where, under law, an agency of the state must make orders based on the adjudication process. *Arkansas Livestock & Poultry Comm'n v. House*, 276 Ark. 326, 634 S.W.2d 388 (1982).

Applicability.

Since local school districts are political subdivisions of the state and not state agencies within the meaning of the act, this subchapter does not apply to local school districts. *Corbin v. Special Sch. Dist.*, 250 Ark. 357, 465 S.W.2d 342 (1971).

The Alcoholic Beverage Commission is not an agency excepted from this subchapter and is therefore subject to its provisions. *Byrd v. Jones*, 263 Ark. 406, 565 S.W.2d 131 (1978).

Former section authorizing State Highway Commission to adopt rules did not affect the adjudicatory provisions of this subchapter and the State Highway Commission was subject to the act. *Arkansas State Hwy. Comm'n v. Wood*, 264 Ark. 425, 572 S.W.2d 583 (1978).

The State Insurance Commissioner, when acting as a hearing officer, is governed by this subchapter. *Garner v. Foundation Life Ins. Co.*, 17 Ark. App. 13, 702 S.W.2d 417 (1986).

The Supreme Court is not subject to the Administrative Procedure Act. *Muhammed v. Arkansas Supreme Court Comm. on Professional Conduct*, 291 Ark. 29, 722 S.W.2d 280 (1987).

Appeal from a decision by Arkansas State Board of Education is governed by this subchapter. *Arkansas State Bd. of Educ. v. Purifoy*, 292 Ark. 526, 731 S.W.2d 209 (1987).

The Arkansas Administrative Procedure Act, providing for a review from actions of state commissions and agencies, has no application to the State Claims Commission. *Fireman's Ins. Co. v. Arkansas State Claims Comm'n*, 301 Ark. 451, 784 S.W.2d 771 (1990), cert. denied, 498 U.S. 824, 111 S. Ct. 76, 112 L. Ed. 2d 50 (1990).

Where the Health Services Commission concluded it would only apply three of nine priorities used to determine need, and it gave a well-reasoned explanation and applied the priorities consistently, because the procedures adopted by an agency may vary according to the purpose for which a review is conducted, the commission's actions did not amount to a change of its rules requiring compliance with the Administrative Procedures Act. *Beverly Enterprises-Arkansas, Inc. v. Arkansas Health Servs. Comm'n*, 308 Ark. 221, 824 S.W.2d 363 (1992).

The judicial review provisions of this subchapter are not applicable to the discharge of an employee; the discharge of an employee is not an adjudication but administrative decision and the circuit court is without jurisdiction to review such ac-

tions. *Viswanathan v. Mississippi County Community College Bd. of Trustees*, 318 Ark. 810, 887 S.W.2d 531 (1994), cert. denied, 516 U.S. 815, 116 S. Ct. 70, 133 L. Ed. 2d 30 (1995).

Appellate Review.

The rules governing judicial review of administrative decisions are identical for both the circuit and appellate courts, and it is the decision of the agency, rather than that of the circuit court, which the appellate court reviews. *City of Hector v. Arkansas Soil & Water Conservation Comm'n*, 47 Ark. App. 177, 888 S.W.2d 312 (1994).

In cases arising under this subchapter, the appellate court reverses only if substantial evidence is lacking, an abuse of discretion has occurred, or if the agency has acted in an arbitrary or capricious manner. *City of Hector v. Arkansas Soil & Water Conservation Comm'n*, 47 Ark. App. 177, 888 S.W.2d 312 (1994).

Cited: *Harber v. Rhodes*, 248 Ark. 1188, 455 S.W.2d 926 (1970); *Arkansas State Racing Comm'n v. Sayler*, 249 Ark. 913, 462 S.W.2d 472 (1971); *Hickman v. Arkansas Bd. of Pardons & Paroles*, 361 F. Supp. 864 (E.D. Ark. 1973); *Travelers Indem. Co. v. Monroe*, 257 Ark. 1029, 522 S.W.2d 431 (1975); *Boshears v. Arkansas Racing Comm'n*, 258 Ark. 741, 528 S.W.2d 646 (1975); *Sikes v. General Publishing Co.*, 264 Ark. 1, 568 S.W.2d 33 (1978); *Bushong v. State*, 267 Ark. 113, 589 S.W.2d 559 (1979), cert. denied, 446 U.S. 938, 100 S. Ct. 2157, 64 L. Ed. 2d 791 (1980); *Woodyard v. Arkansas Diversified Ins. Co.*, 268 Ark. 94, 594 S.W.2d 13 (1980); *Hilton Hilltop, Inc. v. Riviere*, 268 Ark. 532, 597 S.W.2d 596 (1980); *Price v. State*, 268 Ark. 535, 597 S.W.2d 598 (1980); *Evans v. Arkansas Racing Comm'n*, 270 Ark. 788, 606 S.W.2d 578 (1980); *Arkansas State Hwy. Comm'n v. White Adv. Int'l*, 273 Ark. 364, 620 S.W.2d 280 (1981); *Goodall v. Williams*, 271 Ark. 354, 609 S.W.2d 25 (1980); *Brazil v. Arkansas Bd. of Dental Exmrs.*, 593 F. Supp. 1354 (E.D. Ark. 1984); *Arkansas State Bd. of Pharmacy v. Isely*, 13 Ark. App. 111, 680 S.W.2d 718 (1984); *ABC Div. v. Barnett*, 285 Ark. 189, 685 S.W.2d 511 (1985); *Patterson v. Robbins*, 295 Ark. 511, 749 S.W.2d 330 (1988); *McCarty v. Board of Trustees*, 45 Ark. App. 102, 872 S.W.2d 74 (1994).

25-15-201. Title.

This subchapter shall be known and cited as the “Arkansas Administrative Procedure Act”.

History. Acts 1967, No. 434, § 15;
A.S.A. 1947, § 5-714.

RESEARCH REFERENCES

Ark. L. Notes. Driver, The Arkansas Register: Worth Doing Right? The Case for Codification of Arkansas Regulatory Law, 1992 Ark. L. Notes 99.

CASE NOTES

Cited: Eldridge v. Board of Cor., 298 Ark. 467, 768 S.W.2d 534 (1989); Fireman’s Ins. Co. v. Arkansas State Claims Comm’n, 301 Ark. 451, 784 S.W.2d 771 (1990); Brown v. Arkansas State Heating, Ventilation, Air Conditioning & Refrigeration Licensing Bd., 336 Ark. 34, 984 S.W.2d 402 (1999); Arkansas State Plant Bd. v. Bullock, 345 Ark. 373, 48 S.W.3d 516 (2001).

25-15-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Adjudication” means agency process for the formulation of an order;

(2)(A) “Agency” means each board, commission, department, officer, or other authority of the government of the State of Arkansas, whether or not within, or subject to review by, another agency, except the General Assembly, the courts, and Governor.

(B) The word “agency” shall include the Division of Child Care and Early Childhood Education of the Department of Human Services and the Child Care Appeal Review Panel for purposes of administrative appeal.

(C) The word “agency” shall not include the Arkansas Public Service Commission, the Arkansas Pollution Control and Ecology Commission, the Workers’ Compensation Commission, and the Arkansas Employment Security Department, it being determined by the General Assembly that the existing laws governing those agencies provide adequate administrative procedures for those agencies.

(D) Nothing in this subchapter shall be construed to repeal delegations of authority as provided by law;

(3) “License” includes any agency permit, certificate, approval, registration, charter, or similar form of permission required by law;

(4) “Licensing” means any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, or amendment of a license;

(5) “Order” means the final disposition of an agency in any matter other than rule making, including licensing and rate making, in which the agency is required by law to make its determination after notice and hearing;

(6) “Party” means any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any agency proceeding;

(7) “Person” means any individual, partnership, corporation, association, or public or private organization of any character;

(8)(A) “Rule” means any agency statement of general applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice of any agency and includes, but is not limited to, the amendment or repeal of a prior rule.

(B) “Rule” does not mean:

(i) Statements concerning the internal management of an agency and which do not affect the private rights or procedures available to the public;

(ii) Declaratory rulings issued pursuant to § 25-15-206; or

(iii) Intra-agency memoranda; and

(9) “Rule making” means agency process for the formulation, amendment, or repeal of a rule.

History. Acts 1967, No. 434, § 1; 1971, No. 316, § 1; 1977, No. 349, § 1; 1979, No. 324, § 15; A.S.A. 1947, §§ 5-701, 5-701.1; Acts 1997, No. 1149, § 1; 1999, No. 1222, § 17; 2001, No. 1648, § 1.

Publisher’s Notes. Pursuant to Acts 1991, No. 100, the name of the Employment Security Division, referred to in this section, has been changed to the Arkansas Employment Security Department.

Amendments. The 1997 amendment, in (2)(C), deleted “the Arkansas Transportation Commission,” and “the Contractors Licensing Board, the Department of

Health,” inserted “and” preceding “the Worker’s Compensation Commission” and deleted “and the Department of Veterans’ Affairs.”

The 1999 amendment substituted “Division of Child Care and Early Childhood Education and the Child Care Appeal Review Panel for purposes of administrative appeal” for “Child Care Facility Review Board” in (2)(B).

The 2001 amendment added “and includes...prior rule” in (8)(A); and added (8)(B) and made related changes.

RESEARCH REFERENCES

Ark. L. Notes. Looney, Handling Administrative Proceedings Before the Arkansas Pollution Control and Ecology De-

partment and Commission, 1988 Ark. L. Notes 23.

CASE NOTES

ANALYSIS

Agency.

Delegation of authority.

Rule.

Agency.

Since local school districts are political subdivisions of the state and not state agencies within the meaning of the act, this subchapter does not apply to local school districts. *Corbin v. Special Sch. Dist.*, 250 Ark. 357, 465 S.W.2d 342 (1971).

The Employment Security Division of the Arkansas Department of Labor is specifically exempted but neither the Department of Labor nor the Commissioner (now Director) of Labor are exempt from provisions of this subchapter relating to the procedure for the adoption of rules. *Arkansas Dep’t of Labor v. American Emp. Agency*, 257 Ark. 509, 517 S.W.2d 949 (1975).

The Alcoholic Beverage Commission is not an agency excepted from this subchap-

ter and is therefore subject to its provisions. *Byrd v. Jones*, 263 Ark. 406, 565 S.W.2d 131 (1978).

The Arkansas Administrative Procedure Act does not apply to the Supreme Court Committee on Professional Conduct; courts are specifically excluded from the definition of “agency,” and the Committee on Professional Conduct is an arm of the Supreme Court. *Supreme Court Comm. on Professional Conduct v. Muhammed*, 291 Ark. 225, 723 S.W.2d 828 (1987).

Delegation of Authority.

Words “delegation of authority” do not refer to jurisdiction placed in a court. *Arkansas Sav. & Loan Ass’n Bd. v. Corn-*

ing Sav. & Loan Ass’n, 252 Ark. 264, 478 S.W.2d 431 (1972).

Rule.

Site selection for the construction of an adult detention facility does not fall anywhere within the definition of the term “rule” as contained in this section, as it does not constitute an agency statement of general applicability. *Eldridge v. Board of Cor.*, 298 Ark. 467, 768 S.W.2d 534 (1989).

Cited: *Fireman’s Ins. Co. v. Arkansas State Claims Comm’n*, 301 Ark. 451, 784 S.W.2d 771 (1990); *National Park Medical Ctr. v. Arkansas Dep’t of Human Servs.*, 322 Ark. 595, 911 S.W.2d 250 (1995); *Beavers v. Arkansas Bd. of Dental Exm’rs*, 151 F.3d 838 (8th Cir. 1998).

25-15-203. Rules — Required rules — Public inspection.

(a) In addition to other rule making requirements imposed by law, each agency shall:

(1) Adopt as a rule a description of its organization, stating the general course and method of its operations, including the methods whereby the public may obtain information or make submissions or requests;

(2) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency;

(3) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions;

(4) Make available for public inspection all orders, decisions, and opinions.

(b) No agency rule, order, or decision shall be valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been filed and made available for public inspection as required in this subchapter. This provision shall not apply in favor of any person or party with actual knowledge of an agency rule, order, or decision.

History. Acts 1967, No. 434, § 2; A.S.A. 1947, § 5-702; Acts 1993, No. 1106, § 2; 2001, No. 1648, § 2.

Amendments. The 2001 amendment inserted “rule” in (b).

RESEARCH REFERENCES

Ark. L. Notes. Driver, The Arkansas Register: Worth Doing Right? The Case

for Codification of Arkansas Regulatory Law, 1992 Ark. L. Notes 99.

CASE NOTES

Discovery.

The plaintiff was not deprived of due process by the department's failure to promulgate rules and regulations for its administrative hearing procedures as required by the statute where she had

considerable opportunity for discovery and did not say that she asked the hearing officer for more. *Alexander v. Pathfinder, Inc.*, 189 F.3d 735 (8th Cir. 1999).

Cited: *Parker v. Corrothers*, 750 F.2d 653 (8th Cir. 1984).

25-15-204. Rules — Procedure for adoption.

(a) Prior to the adoption, amendment, or repeal of any rule, the agency shall:

(1)(A) Give at least thirty (30) days' notice of its intended action. The thirty-day period shall begin on the first day of the publication of notice.

(B) The notice shall include a statement of the terms or substance of the intended action or a description of the subjects and issues involved, and the time, the place where, and the manner in which interested persons may present their views thereon.

(C) The notice shall be mailed to any person specified by law and to all persons who shall have requested advance notice of rule making proceedings.

(D) Unless otherwise provided by law, the notice shall be published in a newspaper of general daily circulation for seven (7) consecutive days and, where appropriate, in those trade, industry, or professional publications which the agency may select; and

(2)(A) Afford all interested persons reasonable opportunity to submit written data, views, or arguments, orally or in writing.

(B) Opportunity for oral hearing must be granted if requested by twenty-five (25) persons, by a governmental subdivision or agency, or by an association having no fewer than twenty-five (25) members.

(C) The agency shall fully consider all written and oral submissions respecting the proposed rule before finalizing the language of the proposed rule and filing the proposed rule as required by subsection (d) of this section.

(D) Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(E) Where rules are required by law to be made on the record after opportunity for an agency hearing, the provisions of that law shall apply in place of this subdivision (a)(2).

(b) If an agency finds that imminent peril to the public health, safety, or welfare requires adoption of a rule upon less than thirty (30) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency rule. The rule may be effective for no longer than one hundred twenty (120) days.

(c) Every agency shall accord any person the right to petition for the issuance, amendment, or repeal of any rule. Within thirty (30) days after submission of a petition, the agency shall either deny the petition, stating in writing its reasons for the denial, or shall initiate rule making proceedings.

(d)(1) Every agency, including those exempted under § 25-15-202, shall file with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research a copy of each rule and regulation adopted by it and a statement of financial impact for the rule or regulation.

(2) The Secretary of State shall keep a register of the rules open to public inspection, and it shall be a permanent register.

(3) Each agency shall provide its regulations to the Bureau of Legislative Research in an electronic format acceptable to the bureau. The bureau shall place the agency regulations in the General Assembly's Internet Web site.

(4)(A) The scope of the financial impact statement shall be determined by the agency, but shall include, at a minimum, the estimated cost of complying with the rule and the estimated cost for the agency to implement the rule.

(B) If the agency has reason to believe that the development of a financial impact statement will be so speculative as to be cost prohibitive, the agency shall submit a statement and explanation to that effect.

(C) If the purpose of a state agency rule or regulation is to implement a federal rule or regulation, the financial impact statement shall be limited to any incremental additional cost of the state rule or regulation as opposed to the federal rule or regulation.

(e)(1) Each rule adopted by an agency shall be effective ten (10) days after filing unless a later date is specified by law or in the rule itself.

(2)(A) However, an emergency rule may become effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of the reasons therefor shall be filed with the rule.

(B) The agency shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

(f) No rule adopted after June 30, 1967, shall be valid unless adopted and filed in substantial compliance with this section.

(g) In any proceeding brought which questions the existence of imminent peril to the public health, safety, or welfare, a written finding by the agency that adoption of any emergency rule was necessary to avoid the loss of federal funding or certification shall establish a prima facie case of the existence of imminent peril to the public health, safety, or welfare and the burden of proof shall shift to the challenger to rebut the existence of the condition by a preponderance of the evidence.

History. Acts 1967, No. 434, § 3; 1979, No. 62, § 1; 1985, No. 139, § 1; A.S.A. 1947, § 5-703; Acts 1989, No. 932, §§ 1, 2; 1993, No. 1106, § 1; 1995, No. 459, § 3; 1995, No. 884, §§ 1-3; 1995, No. 1104, § 1; 1997, No. 406, § 1; 1997, No. 533, § 4; 2001, No. 1648, § 3.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 1995, Nos. 884 and 1104. Subsection (d) of this section was also amended by Acts 1995, No. 459 to read as follows: “(d)(1) Every agency, including those exempted under § 25-15-202, shall file with the Secretary of State, the Arkansas State Library, and the Arkansas Code Revision Commission a certified copy of each rule and regulation adopted by it.

“(2) The Secretary of State shall keep a register of the rules open to public inspection, and it shall be a permanent register.

“(3) The Arkansas Code Revision Commission shall publish a code of state regulations pursuant to § 1-2-301 et seq.”

Amendments. The 1997 amendment

by No. 406, in (a)(2), substituted “orally or in writing” for “and, if the agency in its discretion shall so direct, oral testimony or argument” in the first sentence, and inserted the present second, third, and fourth sentences.

The 1997 amendment by No. 533 substituted “Bureau of Legislative Research” for “Arkansas Code Revision Commission” in (d)(1); and rewrote (d)(3).

The 2001 amendment redesignated former (a)(1) as present (a)(1)(A) and made related changes; in (a)(1)(D), substituted “Unless otherwise provided by law, the notice” for “The notice,” substituted “in a newspaper” for “as specified by law or, if no manner of publication is so specified, then in those newspapers,” and inserted “for seven (7) consecutive days”; inserted “(a)(2)” in (a)(2)(E); substituted “thirty (30)” for “twenty (20)” in (b); redesignated former (e) as present (e)(1) and made related changes; deleted (g) and redesignated the remaining subsection; and made minor stylistic changes.

RESEARCH REFERENCES

Ark. L. Notes. Driver, The Arkansas Register: Worth Doing Right? The Case

for Codification of Arkansas Regulatory Law, 1992 Ark. L. Notes 99.

CASE NOTES

ANALYSIS

Applicability.
Rule modification.

Applicability.

The Employment Security Division of the Arkansas Department of Labor (now Arkansas Employment Security Department) is specifically exempted but neither the Department of Labor nor the Commissioner of Labor (now Director of the Arkansas Employment Security Department) are exempt from provisions of this subchapter relating to the procedure for the adoption of rules. Arkansas Dep’t of Labor v. American Emp. Agency, 257 Ark. 509, 517 S.W.2d 949 (1975).

Rule Modification.

As the Department of Human Services had the ability to modify the proposed rules, which plaintiff health care provider contended were fixed by contract prior to the expiration of the public comment period, the rule making was not in violation of this section. National Park Medical Ctr. v. Arkansas Dep’t of Human Servs., 322 Ark. 595, 911 S.W.2d 250 (1995).

Cited: Curry v. State, 279 Ark. 153, 649 S.W.2d 833 (1983); Parker v. Corrothers, 750 F.2d 653 (8th Cir. 1984); Muhammed v. Arkansas Supreme Court Comm. on Professional Conduct, 291 Ark. 29, 722 S.W.2d 280 (1987); Eldridge v. Board of Cor., 298 Ark. 467, 768 S.W.2d 534 (1989).

25-15-205. Rules — “The Arkansas Register”.

(a) The Secretary of State shall compile, index, and publish a publication to be known as “The Arkansas Register”. This publication shall contain all adopted rules of any agency.

(b) The Secretary of State shall publish "The Arkansas Register" at least monthly, setting forth a synopsis of rules filed by agencies. A cumulative index shall be published annually.

(c)(1) "The Arkansas Register" shall be furnished to all state agencies and other persons at prices fixed by the Secretary of State to cover publication and mailing costs.

(2) Proceeds from the sale of "The Arkansas Register" shall be deposited in the Constitutional Officers Fund and the State Central Services Fund in the State Treasury.

(d) A progress report on publication and distribution shall be provided to the Legislative Council annually.

(e)(1) The Secretary of State shall publish the rules contained in "The Arkansas Register" on its Internet Web site.

(2) The Secretary of State may omit from publication on its Internet web site any rules:

(A) That are published on an agency, board, or commission Internet Web site and are accessible at no cost to the public; or

(B) In which publication would be unduly cumbersome, expensive, or otherwise, so long as its Internet Web site indicates where and how a copy of the omitted materials may be obtained.

(3) The Secretary of State may adopt regulations implementing the provisions of this section, including, but not limited to, requiring the submission of rules in an acceptable electronic format.

History. Acts 1967, No. 434, § [17], as added by Acts 1979, No. 818, § 1; 1977, No. 720, § 3; A.S.A. 1947, §§ 5-704.1, 5-704.2; Acts 1991, No. 1075, § 14; 2001, No. 1648, § 4.

Amendments. The 2001 amendment added (e).

RESEARCH REFERENCES

UALR L.J. Heller and Sallings, Survey of Public Law, 3 UALR L.J. 296.

25-15-206. Rules — Declaratory orders.

Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders as to the applicability of any rule, statute, or order enforced by it. These declaratory orders shall have the same status as agency orders in cases of adjudication.

History. Acts 1967, No. 434, § 6; A.S.A. 1947, § 5-706.

CASE NOTES

Cited: *Douglass v. Nationwide Mut. Ins. Co.*, 323 Ark. 105, 913 S.W.2d 277 (1996).

25-15-207. Rules — Actions for declaratory judgments.

(a) The validity or applicability of a rule may be determined in an action for declaratory judgment if it is alleged that the rule, or its threatened application, injures or threatens to injure the plaintiff in his person, business, or property.

(b) The action may be brought in the circuit court of any county in which the plaintiff resides or does business or in Pulaski County Circuit Court.

(c) The agency shall be made defendant in that action.

(d) A declaratory judgment may be rendered whether or not the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question.

History. Acts 1967, No. 434, § 5;
A.S.A. 1947, § 5-705.

RESEARCH REFERENCES

UALR L.J. Survey — Civil Procedure,
12 UALR L.J. 135.

CASE NOTES

ANALYSIS

In general.

Purpose.

Applicability.

Administrative remedies.

Ripeness.

Venue.

In General.

Pursuant to subsection (a), an action for declaratory judgment is a proper method for testing the validity of rules which, in the plaintiff's view, threaten future damage. *McEuen Burial Ass'n v. Arkansas Burial Ass'n Bd.*, 298 Ark. 572, 769 S.W.2d 415 (1989).

Purpose.

Declaratory actions are intended to supplement rather than replace ordinary causes of action. *Regional Care Facilities, Inc. v. Rose Care, Inc.*, 322 Ark. 780, 912 S.W.2d 406 (1995).

Applicability.

Declaratory relief is not proper when the identical questions involved in the declaratory judgment proceeding are already at issue between the parties in a pending action and declaratory judgment procedure is not proper as a means of trying a case, or various issues involved in

it, by piecemeal. *Regional Care Facilities, Inc. v. Rose Care, Inc.*, 322 Ark. 780, 912 S.W.2d 406 (1995).

Administrative Remedies.

It seems to be now a recognized doctrine that requires administrative relief to be sought before resorting to declaratory procedure, wherever administrative relief is afforded and this requirement is not one merely requiring the initiation of administrative procedure, but the administrative procedure must be pursued to its final conclusion before resort may be had to the court for declaratory relief. *Regional Care Facilities, Inc. v. Rose Care, Inc.*, 322 Ark. 780, 912 S.W.2d 406 (1995).

Applicant was required to exhaust its administrative remedies before seeking a declaratory order from the court for injunctive relief. *Regional Care Facilities, Inc. v. Rose Care, Inc.*, 322 Ark. 780, 912 S.W.2d 406 (1995).

This section does not allow one to file a declaratory judgment action in court without first exhausting his administrative remedies before the Game and Fish Commission. *Ford v. Arkansas Game & Fish Comm'n*, 335 Ark. 245, 979 S.W.2d 897 (1998).

Ripeness.

When a rule (or declaratory order) has a

direct effect on the day-to-day business operations of an insurance company and places that company in a dilemma regarding the full range of property and casualty insurance, the issue is a fit subject for judicial review and a petition for declaratory relief. *Douglass v. Nationwide Mut. Ins. Co.*, 323 Ark. 105, 913 S.W.2d 277 (1996).

Venue.

Subsection (b) of this section, discussing venue for declaratory judgment actions brought to challenge the validity or appli-

cability of an administrative agency rule, by its express terms applied only to such actions brought in the trial court. *Arkansas Game & Fish Comm'n v. Harkey*, 345 Ark. 279 (2001).

Cited: *Statewide Health Coordinating Council v. Circuit Court*, 287 Ark. 84, 696 S.W.2d 729 (1985); *UHS of Ark., Inc. v. City of Sherwood*, 296 Ark. 97, 752 S.W.2d 36 (1988); *Arkansas Game & Fish Comm'n v. Murders*, 327 Ark. 426, 938 S.W.2d 854 (1997).

25-15-208. Administrative adjudication — Procedures generally.

(a) In every case of adjudication:

(1) All parties shall be afforded an opportunity for hearing after reasonable notice.

(2) The notice shall include:

(A) A statement of the time, place, and nature of the hearing;

(B) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(C) A short and plain statement of the matters of fact and law asserted.

(3) In every case of adjudication wherein an agency seeks to revoke, suspend, or otherwise sanction a license or permit holder, the agency or its attorney, upon the request of the license or permit holder, must provide the following information prior to conducting a hearing of adjudication:

(A) The names and addresses of persons whom the agency intends to call as witnesses at any hearing;

(B) Any written or recorded statements and the substance of any oral statements made by the license or permit holder, or a copy of the same;

(C) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations, scientific tests, experiments, or comparisons, or copies of the same;

(D) Any books, papers, documents, photographs, or tangible objects which the agency intends to use in any hearing or which were obtained from or belong to the license or permit holder, or copies of the same;

(E) Disclosure shall not be required of research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the attorney for the agency or members of his staff or other state agents.

(4) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(5) The record shall include:

- (A) All pleadings, motions, and intermediate rulings;
- (B) Evidence received or considered, including, on request of any party, a transcript of oral proceedings or any part thereof;
- (C) A statement of matters officially noticed;
- (D) Offers of proof, objections, and rulings thereon;
- (E) Proposed findings and exceptions thereto; and
- (F) All staff memoranda or data submitted to the hearing officer or members of an agency in connection with their consideration of the case.

(6) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(7) If the agency is authorized by law to issue subpoenas for the attendance and testimony of witnesses and the production of documents or things, then any party shall to the same extent be so authorized, and the agency shall issue a subpoena forthwith on written application thereof.

(b) Nothing in this subchapter shall prohibit informal disposition by stipulation, settlement, consent order, or default.

History. Acts 1967, No. 434, § 8; A.S.A. 1947, § 5-708; Acts 1993, No. 1083, § 1.

RESEARCH REFERENCES

Ark. L. Notes. Watkins, Using the Freedom of Information Act as a Discovery Device, 1994 Ark. L. Notes 59.

CASE NOTES

Applicability.

The discretionary authority for an adjudicatory or administrative hearing contained in former § 23-32-1203(e) precludes the application of subdivision (a)(3) of this section by virtue of § 25-15-211. Simply stated, in this situation the Administrative Procedure Act does not apply to the activities of the state bank commis-

sioner. *First Nat'l Bank v. Arkansas State Bank Comm'r*, 301 Ark. 1, 781 S.W.2d 744 (1989).

Cited: *Franklin v. Arkansas Dep't of Human Servs.*, 319 Ark. 468, 892 S.W.2d 262 (1995); *Brown v. Arkansas State Heating, Ventilation, Air Conditioning & Refrigeration Licensing Bd.*, 336 Ark. 34, 984 S.W.2d 402 (1999).

25-15-209. Administrative adjudication — Communication by decision maker.

(a) Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make final or proposed findings of fact or conclusions of law in any case of adjudication shall not communicate, directly or indirectly, in connection with any issue of fact with any person or party nor, in connection with any issue of law, with any party or his

representative, except upon notice and opportunity for all parties to participate.

(b) An agency member may:

(1) Communicate with other members of the agency; and

(2) Have the aid and advice of one (1) or more personal assistants.

History. Acts 1967, No. 434, § 11;
A.S.A. 1947, § 5-711.

CASE NOTES

ANALYSIS

Communication permitted.

Communication prohibited.

Evidence.

Procedural irregularities.

Communication Permitted.

Subsection (b) of this section expressly allows communications between agency members. *Arkansas Appraiser Licensing & Certification Bd. v. Fletcher*, 326 Ark. 628, 933 S.W.2d 789 (1996).

Unsworn statements at public hearings and written communications read aloud into the record are not ex parte communications in violation of subsection (a). *City of Benton v. Arkansas Soil & Water Conservation Comm'n*, 345 Ark. 249 (2001).

Communication prohibited.

Subsection (a) of this section does not prohibit business relationships between agency members; it prohibits communications about issues relating to a particular

adjudication proceeding. *Arkansas Appraiser Licensing & Certification Bd. v. Fletcher*, 326 Ark. 628, 933 S.W.2d 789 (1996).

Evidence.

Violations of subsection (a) must be established by proof of the existence and content of the alleged ex parte communications. *Arkansas Appraiser Licensing & Certification Bd. v. Fletcher*, 326 Ark. 628, 933 S.W.2d 789 (1996).

Procedural Irregularities.

Third party contacts made to ABC Board members violated subsection (a) and, as procedural irregularities, were properly allowed by the trial court as additional testimony describing these contacts and were added to the record pursuant to § 25-15-212. *Arkansas ABC Div. v. Cox*, 306 Ark. 82, 811 S.W.2d 305 (1991).

Cited: *Madden v. United States Assocs.*, 40 Ark. App. 143, 844 S.W.2d 374 (1992).

25-15-210. Administrative adjudication — Decisions.

(a) When, in a case of adjudication, a majority of the officials of the agency who are to render the decision have not heard the case or read the record, the decision, if adverse to a party other than the agency, shall not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary thereto, prepared by the person who conducted the hearing.

(b)(1) In every case of adjudication, a final decision or order shall be in writing or stated in the record.

(2) A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with

agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding.

(c) Parties shall be served either personally or by mail with a copy of any decision or order.

History. Acts 1967, No. 434, § 10;
A.S.A. 1947, § 5-710.

RESEARCH REFERENCES

UALR L.J. Derden, Survey of Arkansas Law: Administrative Law, 2 UALR L.J. 157.

CASE NOTES

ANALYSIS

Findings and conclusions.

- In general.
- Adoption of proposed findings.
- Compliance.
- Noncompliance.
- Sufficiency.
- Waiver.
- Service.

Findings and Conclusions.

—In General.

Subsection (b) does not require findings of fact to be couched in statutory language; it only requires that if such findings of fact are set forth in statutory language they be accompanied with a statement of the underlying facts. *Fowler v. Arkansas Real Estate Comm'n*, 258 Ark. 292, 524 S.W.2d 230 (1975).

The State Banking Board is not required to make specific rulings except in its final decision. *Bank of Waldron v. Scott County Bank*, 267 Ark. 407, 590 S.W.2d 654 (1979).

In granting a bank charter, the State Banking Board could adopt findings of fact and conclusions of law after deciding to grant the charter. *Citizens Bank v. Arkansas State Banking Bd.*, 271 Ark. 703, 610 S.W.2d 257 (1981).

The case law strictly interpreting subdivision (b)(2) of this section would only be applicable to those cases where notice and a hearing are both required. In contrast, given the informal nature of the branch bank application procedure, the state bank commissioner's findings of fact are sufficient to satisfy the requirements of

§ 23-32-1203(f). *First Nat'l Bank v. Arkansas State Bank Comm'r*, 301 Ark. 1, 781 S.W.2d 744 (1989).

Reviewing courts may not supply findings by weighing the evidence themselves, because that function is the responsibility of the administrative agency, which sees the witnesses as they testify. *Green House, Inc. v. Arkansas ABC Div.*, 29 Ark. App. 229, 780 S.W.2d 347 (1989).

—Adoption of Proposed Findings.

Failure to allow response to proposed findings of fact or hearing with regard thereto and adoption of proposed findings was not arbitrary and capricious nor an abuse of discretion where opposing counsel was provided with copy of proposed findings and failed to submit any modifications or comments or any findings of its own. *Bank of Waldron v. Scott County Bank*, 267 Ark. 407, 590 S.W.2d 654 (1979).

—Compliance.

Board's actions in 1993 were not tantamount to a reopening of the issue of fireman's retirement benefits granted in 1989; if fireman presented any information about, or evidence of, a work-related injury to the Board, it was not included in the record and the record did not contain any medical information provided by fireman to support a reopening nor any evidence of fraud, mistake, or misconception of facts that would have supported a reopening of the earlier claim, and thus Board did not fail to comply with this section because there was no adjudication on the merits. *Earp v. Benton Fire Dep't*, 52 Ark. App. 66, 914 S.W.2d 781 (1996).

—Noncompliance.

Case remanded to board for failure to make findings. *Floyd v. Arkansas State Bd. of Pharmacy*, 251 Ark. 626, 473 S.W.2d 866 (1971); *Arkansas Sav. & Loan Ass'n Bd. v. Central Arkansas Sav. & Loan Ass'n*, 256 Ark. 846, 510 S.W.2d 872 (1974); *Gordon v. Cummings*, 262 Ark. 737, 561 S.W.2d 285 (1978).

The statutory requirement with respect to findings is primarily for the benefit of the reviewing courts and a failure to comply with this section is a minor and inconsequential matter. *Independence Sav. & Loan Ass'n v. Citizens Fed. Sav. & Loan Ass'n*, 265 Ark. 203, 577 S.W.2d 390 (1979).

—Sufficiency.

Findings held to be insufficient to meet the requirements of this section. *First State Bldg. & Loan Ass'n v. Arkansas Sav. & Loan Bd.*, 257 Ark. 599, 518 S.W.2d 507 (1975); *First Fed. Sav. & Loan Ass'n v. Arkansas Sav. & Loan Ass'n Bd.*, 257 Ark. 985, 521 S.W.2d 542 (1975).

Findings held to be sufficient. *Holifield v. Arkansas ABC Bd.*, 273 Ark. 305, 619 S.W.2d 621 (1981).

Where Pest Control Committee made specific findings of fact and conclusions of law which the Plant Board adopted, the Board had complied with the requirements of this Act. *Wright v. Arkansas State Plant Bd.*, 311 Ark. 125, 842 S.W.2d 42 (1992).

The statistics, facts, and conclusions of law recited by the agency and the commis-

sion were adequate to facilitate judicial review and to serve the other considerations set out in prior case law. *Olsten Health Servs., Inc. v. Arkansas Health Servs. Comm'n*, 69 Ark. App. 313, 12 S.W.3d 656 (2000).

—Waiver.

The requirements of this section as to findings are primarily for the benefit of the reviewing court and cannot be waived by the parties. *Arkansas Sav. & Loan Ass'n Bd. v. Central Arkansas Sav. & Loan Ass'n*, 256 Ark. 846, 510 S.W.2d 872 (1974); *First State Bldg. & Loan Ass'n v. Arkansas Sav. & Loan Bd.*, 257 Ark. 599, 518 S.W.2d 507 (1975); *Gordon v. Cummings*, 262 Ark. 737, 561 S.W.2d 285 (1978).

Service.

Service of an order of an administrative agency can be by mail; there is no requirement that such service comply with the law regarding service of summons. *Arkansas Contractors Licensing Bd. v. F & F Concrete Prods., Inc.*, 297 Ark. 508, 763 S.W.2d 86 (1989).

Cited: *Floyd v. Arkansas State Bd. of Pharmacy*, 248 Ark. 459, 451 S.W.2d 874 (1970); *Sikes v. General Publishing Co.*, 264 Ark. 1, 568 S.W.2d 33 (1978); *Jones v. Reed*, 267 Ark. 237, 590 S.W.2d 6 (1979); *Fouch v. State, ABC Div.*, 10 Ark. App. 139, 662 S.W.2d 181 (1983); *Brown v. Arkansas State Heating, Ventilation, Air Conditioning & Refrigeration Licensing Bd.*, 336 Ark. 34, 984 S.W.2d 402 (1999).

25-15-211. Administrative adjudication — Licenses.

(a) When the grant, denial, or renewal of a license is required by law to be preceded by notice and an opportunity for hearing, the provisions of this subchapter concerning cases of adjudication apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order, or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, annulment, or withdrawal of any license is lawful unless the agency gives notice by mail to the licensee of facts or conduct warranting the intended action and unless the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that

public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

(d)(1) A complaint filed by an offender with a state licensing board or state licensing agency against a licensee of the board or agency shall not be heard by the board or agency unless the complaint is accompanied by appropriately verified documentation showing that the offender has exhausted all administrative remedies under the Department of Correction grievance procedure.

(2) For purposes of this section, “offender” means any person sentenced to the Department of Correction or sentenced to the Department of Correction for judicial transfer to the Department of Community Punishment or any person confined in a community punishment center as a condition of probation, suspended imposition of sentence, or post prison transfer.

History. Acts 1967, No. 434, § 12; 1985, No. 139, § 2; A.S.A. 1947, § 5-712; Acts 1997, No. 937, § 1.

A.C.R.C. Notes. Acts 2001, No. 323, § 1, provided: “Legislative intent. The General Assembly, in Act 549 of 1993, established the Arkansas Department of Community Punishment and delineated its purposes. Confusion in the public’s perception, with regard to the purposes of the department, exists and will persist because of the inconsistency between the name of the department and its established purposes. The purpose of this act is to provide the department with a name that more accurately describes its role as an agency that is intended to fulfill the legislatively established purposes of supervision, treatment, rehabilitation, and

restoration of adult offenders as useful law-abiding citizens within the community and to provide its supervisory board with a name consistent with the department’s name change.”

Acts 2001, No. 323, § 2, provided: “The ‘Department of Community Punishment’, as established in Arkansas Code 12-27-125, shall hereafter be known as the ‘Department of Community Correction’.”

Acts 2001, No. 323, § 5, provided: “(a) The Arkansas Code Revision Commission shall make appropriate name changes in the Arkansas Code to implement this act.

“(b) The Arkansas Code Revision Commission is not required to codify this act.”

Amendments. The 1997 amendment added (d).

CASE NOTES

ANALYSIS

Applicability.
Advertising sign permits.
License restrictions.

Applicability.

The discretionary authority for an adjudicatory or administrative hearing contained in former § 23-32-1203(e) precludes the application of § 25-15-208(a)(3) by virtue of this section. Simply stated, in this situation the Administrative Procedure Act does not apply to the activities of

the state bank commissioner. First Nat’l Bank v. Arkansas State Bank Comm’r, 301 Ark. 1, 781 S.W.2d 744 (1989).

Advertising Sign Permits.

Decision of state highway commission to cancel permits and cut down outdoor advertising signs could only be carried out after an adjudication requiring a notice and hearing since order deprived the sign owner of his property without due process. Arkansas State Hwy. Comm’n v. White Adv. Int’l, 273 Ark. 364, 620 S.W.2d 280 (1981).

License Restrictions.

Medical board had authority to temporarily restrict physician's prescribing practices as a condition to granting continuance of hearing on malpractice charges. *Arkansas State Medical Bd. v. Leonard*, 267 Ark. 61, 590 S.W.2d 849 (1979).

Cited: *Fowler v. Arkansas Real Estate Comm'n*, 258 Ark. 292, 524 S.W.2d 230 (1975); *Brown v. Arkansas State Heating, Ventilation, Air Conditioning & Refrigeration Licensing Bd.*, 336 Ark. 34, 984 S.W.2d 402 (1999).

25-15-212. Administrative adjudication — Judicial review.

(a) In cases of adjudication, any person, except an inmate under sentence to the custody of the Department of Correction, who considers himself or herself injured in his or her person, business, or property by final agency action shall be entitled to judicial review of the action under this subchapter. Nothing in this section shall be construed to limit other means of review provided by law.

(b)(1) Proceedings for review shall be instituted by filing a petition within thirty (30) days after service upon petitioner of the agency's final decision in:

(A) The circuit court of any county in which the petitioner resides or does business; or

(B) Pulaski County Circuit Court.

(2) Copies of the petition shall be served upon the agency and all other parties of record in accordance with the Arkansas Rules of Civil Procedure.

(3) In its discretion, the court may permit other interested persons to intervene.

(c) The filing of the petition does not automatically stay enforcement of the agency decision, but the agency or reviewing court may do so upon such terms as may be just. However, on review of disciplinary orders issued by professional licensing boards governing professions of the healing arts, the reviewing court, only after notice and hearing, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of review proceedings.

(d)(1) Within thirty (30) days after service of the petition or within such further time as the court may allow but not exceeding an aggregate of ninety (90) days, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review.

(2) The cost of the preparation of the record shall be borne by the agency. However, the cost of the record shall be recovered from the appealing party if the agency is the prevailing party.

(3) By stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs.

(4) The court may require or permit subsequent corrections or additions to the record.

(e) If review proceedings have been instituted in two (2) or more circuit courts with respect to the same order, the agency concerned shall

file the record in the court in which a proceeding was first instituted. The other courts in which the proceedings are pending shall thereupon transfer them to the court in which the record has been filed.

(f) If before the date set for hearing, application is made to the court for leave to present additional evidence and the court finds that the evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon any conditions which may be just. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(g) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency not shown in the record, testimony may be taken before the court. The court shall, upon request, hear oral argument and receive written briefs.

(h) The court may affirm the decision of the agency or remand the case for further proceedings. It may reverse or modify the decision if the substantial rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the agency's statutory authority;
- (3) Made upon unlawful procedure;
- (4) Affected by other error or law;
- (5) Not supported by substantial evidence of record; or
- (6) Arbitrary, capricious, or characterized by abuse of discretion.

(i) Any agency order which is affirmed or affirmed in part by the court shall be a final judgment subject to writ of garnishment or execution to the extent it is affirmed.

History. Acts 1967, No. 434, § 13; 1979, No. 704, § 1; 1985, No. 139, § 3; A.S.A. 1947, § 5-713; Acts 1989, No. 709, § 1; 1999, No. 778, § 1; 2001, No. 1648, § 5.

Publisher's Notes. Acts 1989, No. 709, was held unconstitutional in *Clinton v. Bonds*, 306 Ark. 554, 816 S.W.2d 169 (1991).

Amendments. The 1999 amendment substituted "in accordance with the Arkansas Rules of Civil Procedure" for "by personal delivery or by mail" in (b)(2); and made stylistic changes.

The 2001 amendment added (i).

RESEARCH REFERENCES

Ark. L. Notes. Looney, Handling Administrative Proceedings Before the Arkansas Pollution Control and Ecology Department and Commission, 1988 Ark. L. Notes 23.

UALR L.J. Derden, Survey of Arkansas Law: Administrative Law, 2 UALR L.J. 157.

CASE NOTES

ANALYSIS

Constitutionality.

In general.

Applicability.

Additional evidence.

Adjudication.

Appeal from circuit court.

Attorney's fees.

Costs.

Election of remedies.

Illustrative case.

Injured persons.

Jurisdiction.

Modification.

Procedural irregularities.

Record.

Remand.

Request for argument or briefs.

Scope of review.

—Arbitrary, capricious, etc.

—Substantial evidence.

Standing.

Constitutionality.

Acts 1989, No. 709, which amended subsection (a) of this section, unconstitutionally deprives inmates of review of constitutional questions, because judicial review of all other administrative questions may be granted, or withheld, according to the legislature's discretion. *Clinton v. Bonds*, 306 Ark. 554, 816 S.W.2d 169 (1991).

In General.

The procedure for judicial review under this subchapter is an exception to the rules of civil procedure. *Whitlock v. G.P.W. Nursing Home, Inc.*, 283 Ark. 158, 672 S.W.2d 48 (1984).

This subchapter provides an alternate appellate procedure and jurisdiction for the judicial review of an adjudication by an agency subject to this subchapter. *United States Rooter All Type Plumbing Co. v. Holliman*, 50 Ark. App. 125, 900 S.W.2d 580 (1995).

Under this chapter, it is not the role of the circuit courts or the appellate courts to conduct a de novo review of the record, but to review the case to ascertain whether there is substantial evidence to support the agency decision or whether the agency decision runs afoul of one of the other criteria set out in subsection (h). *Arkansas*

Dep't of Human Servs. v. Thompson, 331 Ark. 181, 959 S.W.2d 46 (1998).

Applicability.

Judicial review of Arkansas Cemetery Board order was within the scope of a proceeding to review an action covered by this subchapter. *Arkansas Cem. Bd. v. Memorial Properties, Inc.*, 272 Ark. 172, 616 S.W.2d 713 (1981).

It is only in the judicial functions that this subchapter purports to subject agency decisions to appellate review and then only as narrowly prescribed in the subchapter. *Arkansas Livestock & Poultry Comm'n v. House*, 276 Ark. 326, 634 S.W.2d 388 (1982).

Termination of an agency employee is not a judicial function, but an administrative act which is not subject to judicial review and agency did not subject itself to judicial review by giving employee the right to be heard and proceeding in a quasi-judicial fashion. *Arkansas Livestock & Poultry Comm'n v. House*, 276 Ark. 326, 634 S.W.2d 388 (1982).

The Arkansas Administrative Procedure Act is not closely analogous to the federal Individuals with Disabilities Education Act and, therefore, the 30 day limitations period contained in subsection (b)(1) does not apply to the latter act. *Birmingham v. Omaha Sch. Dist.*, 220 F.3d 850 (8th Cir. 2000).

In an action challenging a regulation issued by the Game and Fish Commission which prohibited commercial duck hunting guides from operating on three wildlife management areas on Saturdays and Sundays during the duck hunting season and also prohibited waterfowl hunters from hunting while being guided by a commercial duck guide on those same areas on weekends, the plaintiffs were not entitled to a stay as the commission had not sought to enforce the regulation against any of the plaintiffs and, therefore, there was no final agency action to be reviewed. *Arkansas State Game & Fish Comm'n v. Sledge*, 344 Ark. 505, 42 S.W.3d 427 (2001).

Additional Evidence.

Where appellant failed to make the required statutory showing that additional evidence which he wanted to present was

material and that there were good reasons for his failure to present it to the commission, the circuit court did not err in affirming commission's decision. *Woolsey v. Arkansas Real Estate Comm'n*, 263 Ark. 348, 565 S.W.2d 22 (1978).

The trial court should first view the application for additional evidence to determine if the party was diligent and then determine if the application merely has general or conclusory statements as to the additional evidence. If the trial court finds that additional evidence should be taken, it must then remand the case to the board for it to hear the additional evidence. *Marshall v. ABC Bd.*, 15 Ark. App. 255, 692 S.W.2d 258 (1985).

There was substantial evidence supporting the court's finding that there were good reasons for the failure of the applicant for retail liquor and off-premises beer permit to present evidence as to the public convenience and advantage before the Alcoholic Beverage Control Board, where the director, in denying the application, indicated the deficiencies in the application were only the adequacy of the building and the adequacy of police protection; therefore, the court properly ordered additional evidence to be taken. *ABC Bd. v. Hicks*, 19 Ark. App. 212, 718 S.W.2d 488 (1986).

Third party contacts made to ABC Board members violated § 25-15-209(a) and, as procedural irregularities, were properly allowed by the trial court as additional testimony describing these contacts and were added to the record pursuant to this section. *Arkansas ABC Div. v. Cox*, 306 Ark. 82, 811 S.W.2d 305 (1991).

The court erred in remanding to the Board for additional evidence to be taken concerning issues which had not been raised in the initial administrative hearing. *Department of Fin. & Admin. v. Samuhel*, 51 Ark. App. 76, 909 S.W.2d 656 (1995).

Where appellant never requested an evidentiary hearing nor made application to the circuit court for such pursuant to subsection (f) for leave to present additional evidence, this issue may not be raised for the first time on appeal. *Mid-South Rd. Bldrs., Inc. v. Arkansas Contractors Licensing Bd.*, 328 Ark. 630, 946 S.W.2d 649 (1997).

Adjudication.

Where board heard no testimony, made

no findings of fact or conclusions of law, no copy of any decision was served on a party, and no record of proceedings was certified to a circuit court, there was no adjudication within the meaning of this section; rather an administrative decision was made, reviewable only by writ of certiorari in Pulaski County. *Sikes v. General Publishing Co.*, 264 Ark. 1, 568 S.W.2d 33 (1978).

Whether a decision of the Statewide Health Coordinating Council was the result of rule making or adjudication was a question of fact to be determined by the circuit court. *Statewide Health Coordinating Council v. Circuit Court*, 287 Ark. 84, 696 S.W.2d 729 (1985).

Appeal from Circuit Court.

The rules governing judicial review of administrative decisions are identical for both the circuit and appellate courts, and it is the decision of the agency, rather than that of the circuit court, which the appellate court reviews. *City of Hector v. Arkansas Soil & Water Conservation Comm'n*, 47 Ark. App. 177, 888 S.W.2d 312 (1994).

In cases arising under this subchapter, the appellate court reverses only if substantial evidence is lacking, an abuse of discretion has occurred, or if the agency has acted in an arbitrary or capacious manner. *City of Hector v. Arkansas Soil & Water Conservation Comm'n*, 47 Ark. App. 177, 888 S.W.2d 312 (1994).

Attorney's Fees.

An award of attorney's fees is not provided for by this section; only the cost of the preparation of the record may be borne by the agency. *Arkansas Dep't of Human Servs. v. Kistler*, 320 Ark. 501, 898 S.W.2d 32 (1995).

Costs.

Where state agency, as appellee, paid for a transcript of the record and was the prevailing party, the circuit court did not err in ordering appellant to reimburse the agency. *Hankins v. Department of Fin. & Admin.*, 330 Ark. 492, 954 S.W.2d 259 (1997).

Election of Remedies.

This section did not preclude review of insurance commissioner's order under review provision of insurance code. *Travelers Indem. Co. v. Monroe*, 257 Ark. 1029, 522 S.W.2d 431 (1975).

Where appellant asserted that the appeal should be tried *de novo* pursuant to alcoholic beverage control law and made no request in the circuit court that the appeal be treated as taken under this subchapter, he was bound by his decision to follow one procedure for appeal rather than the other. *Byrd v. Jones*, 263 Ark. 406, 565 S.W.2d 131 (1978). See also *Green v. Carder*, 276 Ark. 591, 637 S.W.2d 594 (1982).

Where plaintiffs were forced to choose whether to proceed under this section or *de novo* review provision of alcoholic beverage control laws and the *de novo* review statute they elected to pursue their remedy under was subsequently declared unconstitutional, the plaintiffs would be treated as if they had only made a mistake and not an irrevocable election of remedies and would be allowed to proceed under this section. *Green v. Carder*, 276 Ark. 591, 637 S.W.2d 594 (1982).

Illustrative Case.

State racing commission's order that greyhound racing purse be redistributed to owner of second place finisher after the winning greyhound's urine tested positive for an anti-inflammatory drug in violation of state racing rules was supported by substantial evidence and was not arbitrary, capricious, or an abuse of discretion as the state racing commission merely applied the undisputed fact that the drug was administered to the dog to the state's racing rules prohibiting such conduct. *Arkansas State Racing Comm'n v. Wayne Ward, Inc.*, 346 Ark. 371, 57 S.W.3d 198 (2001).

Injured Persons.

This section affords to "any person who considers himself injured in his person, business or property, by final agency action" judicial review of such action whether such person was a party to the administrative proceeding or not. *Estes v. Walters*, 269 Ark. 891, 601 S.W.2d 252 (Ct. App. 1980).

Appeal from agency decision dismissed where appellant failed to allege that he had sustained or was immediately in danger of sustaining injury either in his "person, business or property" as a consequence of the decision since only a claimant who has a personal stake in the outcome of a controversy has standing to

invoke the jurisdiction of the circuit court in order to seek remedial relief; his injury must be concrete, specific, real and immediate rather than conjectural or hypothetical. *Estes v. Walters*, 269 Ark. 891, 601 S.W.2d 252 (Ct. App. 1980).

Jurisdiction.

"Court of competent jurisdiction" is circuit court; chancery court did not have jurisdiction to entertain suit. *Arkansas State Bd. of Educ. v. Purifoy*, 292 Ark. 526, 731 S.W.2d 209 (1987).

The judicial review provisions of this subchapter are not applicable to the discharge of an employee; the discharge of an employee is not an adjudication but administrative decision and the circuit court is without jurisdiction to review such actions. *Viswanathan v. Mississippi County Community College Bd. of Trustees*, 318 Ark. 810, 887 S.W.2d 531 (1994), cert. denied, 516 U.S. 815, 116 S. Ct. 70, 133 L. Ed. 2d 30 (1995).

A court retains jurisdiction over a proceeding after it remands the proceeding to an agency pursuant to subsection (f) of this section and, therefore, can issue subpoenas after such a remand. *Oliver v. Pulaski County Court*, 340 Ark. 681, 13 S.W.3d 156 (2000).

The administrative remedy available to the State Medical Board before the State Board of Dental Examiners on its claim that a dentist, with the aid of the State Board of Dental Examiners, engaged in the unlawful practice of medicine was inadequate and, therefore, the chancery court had jurisdiction over the matter. *Arkansas State Med. Bd. v. Schoen*, 338 Ark. 762, 1 S.W.3d 430 (1999).

Modification.

Revocation of license held to be unduly harsh and penalty modified to suspension for one year. *Arkansas State Bd. of Pharmacy v. Patrick*, 243 Ark. 967, 423 S.W.2d 265 (1968).

The trial court has the authority to modify a penalty assessed under this subchapter if it is found that such penalty is unduly harsh and unreasonable under all the facts. *Arkansas State Bd. of Pharmacy v. Isely*, 13 Ark. App. 111, 680 S.W.2d 718 (1984).

Under subsection (h), the trial court has the discretion to decide whether or not to modify an agency decision. *Brown v. De-*

partment of Human Servs., 330 Ark. 764, 956 S.W.2d 866 (1997).

Procedural Irregularities.

Alleged procedural irregularities in administration of market conduct examination, results of which formed basis of State Insurance Commissioner's finding, were not matters of record before the commissioner; therefore, the court could take evidence about these matters as they went towards alleged irregularities in procedure not in the record and could support a showing of discriminatory treatment of insurer. *Garner v. Foundation Life Ins. Co.*, 17 Ark. App. 13, 702 S.W.2d 417 (1986).

State Police Commission's failure to adhere to its own requirements that the results of police officer's drug test results be confirmed by a medical review officer deprived police officer of the fundamental rights the commission's procedures were designed to protect, and commission's decision to terminate officer was reversed. *Stueart v. Arkansas State Police Comm'n*, 329 Ark. 46, 945 S.W.2d 377 (1997).

Record.

The results of a polygraph examination would not be the type of evidence commonly relied upon by reasonably prudent men in the conduct of their affairs, thus there was no error in excluding the results from the record of a hearing. *Baxter v. Arkansas State Bd. of Dental Exmrs.*, 269 Ark. 67, 598 S.W.2d 412 (1980).

An administrative agency was not required to file an answer to a complaint which was in the nature of a petition for review of a final decision of the agency; the agency met the requirement of subsection (d) by filing the original or a certified copy of the record of the proceeding under review. *Whitlock v. G.P.W. Nursing Home, Inc.*, 283 Ark. 158, 672 S.W.2d 48 (1984).

Remand.

Although the Arkansas Transportation Commission is excluded from the provisions of this subchapter, where a judge relied on this subchapter in issuing remand order, his action would not be reversed where the order could be supported on other grounds. *Bridges v. Arkansas Motor Coaches, Ltd.*, 256 Ark. 1054, 511 S.W.2d 651 (1974).

Where record of proceeding was totally inadequate for review, the case was re-

manded to commission for adjudication in accordance with this subchapter. *Arkansas State Hwy. Comm'n v. National Adv. Co.*, 273 Ark. 433, 619 S.W.2d 678 (1981).

Request for Argument or Briefs.

Circuit court did not err in not inviting oral argument or written briefs, where no request for oral argument or for submission of briefs was made and where no objection was made after entry of circuit court order affirming board's action. *Bank of Glenwood v. Arkansas State Banking Bd.*, 260 Ark. 677, 543 S.W.2d 761 (1976).

Scope of Review.

Under this section, the courts are given the same type of review that is applied by the federal courts to the federal Administrative Procedure Act. *Arkansas Sav. & Loan Ass'n Bd. v. Central Ark. Sav. & Loan Ass'n*, 260 Ark. 58, 538 S.W.2d 505 (1976).

In view of the fact that administrative decisions are not reviewed de novo, the agency, and not the reviewing court, is in a position to observe witnesses and consider their demeanor and conduct so that the credibility of witnesses and the proper weight to be accorded evidence adduced is a prerogative of the agency, not the reviewing court. *White County Guar. Sav. & Loan Ass'n v. F & M Bank*, 262 Ark. 893, 562 S.W.2d 582 (1978).

Upon review of the actions of an administrative board or agency, the circuit court's review of the evidence is limited to a determination of whether there was substantial evidence to support the action taken, and upon appeal, the Supreme Court's review of the evidence is similarly limited. *Arkansas Real Estate Comm'n v. Harrison*, 266 Ark. 339, 585 S.W.2d 34 (1979); *Arkansas Real Estate Comm'n v. Hale*, 12 Ark. App. 229, 674 S.W.2d 507 (1984).

Supreme Court must affirm the decision of an administrative agency if there is substantial evidence of record to support it. *Partlow v. Arkansas State Police Comm'n*, 271 Ark. 351, 609 S.W.2d 23 (1980).

When reviewing administrative decisions, the Supreme Court reviews the entire record to determine whether there is any substantial evidence to support the administrative agency's decision, or whether there was arbitrary and capricious action, or whether it was character-

ized by abuse of discretion. *Arkansas ABC Bd. v. King*, 275 Ark. 308, 629 S.W.2d 288 (1982).

Review of agency action under the arbitrary and capricious standard is a narrow scope of review. *Arkansas State Bd. of Nursing v. Long*, 8 Ark. App. 288, 651 S.W.2d 109 (1983).

Upon judicial review of administrative decisions, the court must review the entire record and determine whether there is substantial evidence to support the administrative findings. *Arkansas State Bd. of Nursing v. Long*, 8 Ark. App. 238, 651 S.W.2d 109 (1983); *Wright v. Arkansas State Plant Bd.*, 311 Ark. 125, 842 S.W.2d 42 (1992).

The rules governing judicial review of administrative decisions are the same for both the circuit and appellate courts and this review is limited in scope; administrative decisions will be upheld if supported by substantial evidence and not arbitrary, capricious, or characterized by an abuse of discretion. *Fouch v. State, ABC Div.*, 10 Ark. App. 139, 662 S.W.2d 181 (1983).

The reviewing court may not displace the board's choice between two fairly conflicting views even though the court might have made a different choice had the matter been before it *de novo*; the reviewing court may not set aside a board's decision unless it cannot conscientiously find from a review of the entire record that the evidence supporting the decision is substantial. *Fouch v. State, ABC Div.*, 10 Ark. App. 139, 662 S.W.2d 181 (1983).

When reviewing administrative decisions, the court reviews the entire record to determine whether there is any substantial evidence to support the agency's decision, or whether there was arbitrary and capricious action, or action characterized by abuse of discretion. *Green v. Carder*, 282 Ark. 239, 667 S.W.2d 660 (1984).

The court will not substitute its judgment for that of an administrative agency, absent an abuse of discretion by that agency. *Green v. Carder*, 282 Ark. 239, 667 S.W.2d 660 (1984).

The Alcoholic Beverage Control Board had the statutory authority to make findings of fact and conclusions of law based on the evidence presented, and the circuit court acted without authority in making its own findings of fact and conclusions of

law in the absence of a decision by the board. *ABC Bd. v. Hicks*, 19 Ark. App. 212, 718 S.W.2d 488 (1986).

The trial court may reverse or modify a board's decision if it is not supported by substantial evidence or is arbitrary, capricious, or characterized by abuse of discretion, and the Supreme Court's review is similarly limited. *Arkansas ABC Bd. v. Muncrief*, 308 Ark. 373, 825 S.W.2d 816 (1992).

Administrative agencies are better equipped than courts, by specialization, insight through experience, and more flexible procedures, to determine and analyze underlying legal issues affecting their agencies, and this recognition accounts for the limited scope of judicial review of administrative action, and the refusal of a trial court to substitute its judgment and discretion for that of an administrative agency. *Wright v. Arkansas State Plant Bd.*, 311 Ark. 125, 842 S.W.2d 42 (1992).

Where the trial court took three of the factors under subsection (h) into consideration: whether supported by substantial evidence, whether made upon unlawful procedure, and whether there existed arbitrary and capricious procedure, this was more than sufficient to satisfy this subchapter. *Wright v. Arkansas State Plant Bd.*, 311 Ark. 125, 842 S.W.2d 42 (1992).

Appellate court review is not directed toward the circuit court but toward the decision of the agency; the administrative agency's decision will be upheld if it is supported by substantial evidence. *Arkansas State Hwy. & Transp. Dep't v. Kidder*, 326 Ark. 595, 933 S.W.2d 794 (1996).

An appellate court may reverse or modify an agency decision if the substantial rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions, or decisions are, *inter alia*, not supported by substantial evidence of record or are arbitrary, capricious, or characterized by an abuse of discretion. *Olsten Health Servs., Inc. v. Arkansas Health Servs. Comm'n*, 69 Ark. App. 313, 12 S.W.3d 656 (2000).

—Arbitrary, Capricious, Etc.

Administrative action may be regarded as arbitrary and capricious only where it is not supportable on any rational basis. *Partlow v. Arkansas State Police Comm'n*, 271 Ark. 351, 609 S.W.2d 23 (1980).

To set aside administrative action as

arbitrary and capricious, it must be proven that it was willful and unreasonable action, without consideration and with a disregard of the facts or circumstances of the case. *Partlow v. Arkansas State Police Comm'n*, 271 Ark. 351, 609 S.W.2d 23 (1980); *Arkansas State Bd. of Nursing v. Long*, 8 Ark. App. 288, 651 S.W.2d 109 (1983); *Garner v. Foundation Life Ins. Co.*, 17 Ark. App. 13, 702 S.W.2d 417 (1986).

The requirement that administrative action not be arbitrary or capricious is less demanding than the requirement that it be supported by substantial evidence; in order for the action to be invalid as arbitrary, the action must lack rational basis or hinge on a finding of fact based on an erroneous view of the law, and the action is not arbitrary simply because the reviewing court would act differently. *Woodyard v. Arkansas Diversified Ins. Co.*, 268 Ark. 94, 594 S.W.2d 13 (1980); *In re Sugarloaf Mining Co.*, 310 Ark. 772, 840 S.W.2d 172 (1992).

Agency action held not arbitrary, capricious, or characterized by an abuse of discretion. *Partlow v. Arkansas State Police Comm'n*, 271 Ark. 351, 609 S.W.2d 23 (1980); *Huth v. Division of Social Servs. of Dep't of Human Servs.*, 287 Ark. 294, 698 S.W.2d 789 (1985); *Garner v. Foundation Life Ins. Co.*, 17 Ark. App. 13, 702 S.W.2d 417 (1986).

Agency action held to be arbitrary, capricious, or an abuse of discretion. *Division of Social Servs. v. Oak Hills Corp.*, 287 Ark. 32, 695 S.W.2d 836 (1985); *Wright v. Arkansas State Plant Bd.*, 311 Ark. 125, 842 S.W.2d 42 (1992).

—Substantial Evidence.

The requirement that the action of the board be supported by sufficient evidence does not place upon the board the burden of presenting evidence that a petition should be denied nor relieve the petitioner of the burden of presenting evidence sufficient to justify the granting of the petition. *Gray's Butane Whsle., Inc. v. Arkansas Liquefied Petro. Gas Bd.*, 250 Ark. 69, 463 S.W.2d 639 (1971).

Substantial evidence supported agency decision. *White County Guar. Sav. & Loan Ass'n v. F & M Bank*, 262 Ark. 893, 562 S.W.2d 582 (1978); *Woodyard v. Arkansas Diversified Ins. Co.*, 268 Ark. 94, 594 S.W.2d 13 (1980); *Garner v. Foundation Life Ins. Co.*, 17 Ark. App. 13, 702 S.W.2d 417 (1986).

Substantial evidence is valid, legal, and persuasive evidence that a reasonable mind might accept as adequate to support a conclusion. *Partlow v. Arkansas State Police Comm'n*, 271 Ark. 351, 609 S.W.2d 23 (1980); *Arkansas State Bd. of Nursing v. Long*, 8 Ark. App. 288, 651 S.W.2d 109 (1983); *Arkansas Real Estate Comm'n v. Hale*, 12 Ark. App. 229, 674 S.W.2d 507 (1984).

On appeal, the court gives the evidence its strongest probative force in favor of the administrative agency. *Williams v. Scott*, 278 Ark. 453, 647 S.W.2d 115 (1983); *Arkansas Dep't of Human Servs. v. Simes*, 281 Ark. 81, 661 S.W.2d 378 (1983).

In order to establish an absence of substantial evidence to support the decision, the appellant must demonstrate that the proof before the administrative tribunal was so nearly undisputed that fair-minded men could not reach its conclusion. The question is not whether the testimony would have supported a contrary finding but whether it supports the finding that was made. *Williams v. Scott*, 278 Ark. 453, 647 S.W.2d 115 (1983); *Wright v. Arkansas State Plant Bd.*, 311 Ark. 125, 842 S.W.2d 42 (1992).

Evidence insufficient to support agency decision. *Arkansas Dep't of Human Servs. v. Simes*, 281 Ark. 81, 661 S.W.2d 378 (1983); *Fouch v. State, ABC Div.*, 10 Ark. App. 139, 662 S.W.2d 181 (1983).

Substantial evidence means relevant evidence that a reasonable mind might accept as adequate to support the conclusion based on a review of the entire record. *Woodyard v. Arkansas Diversified Ins. Co.*, 268 Ark. 94, 594 S.W.2d 13 (1980); *Fouch v. State, ABC Div.*, 10 Ark. App. 139, 662 S.W.2d 181 (1983).

In applying subsection (h) to child abuse reporting cases, an administrative decision is reviewed under the same credible evidence standard, rather than the substantial evidence standard, however the remaining portions of that subsection remain in effect. *DeWeese v. Polk County Children & Family Servs.*, 40 Ark. App. 139, 842 S.W.2d 466 (1992).

Standing.

Since the Arkansas Department of Labor is covered under the Administrative Procedure Act both, employer and employee have the right to institute an original action in a court of law. *United States*

Rooter All Type Plumbing Co. v. Holliman, 50 Ark. App. 125, 900 S.W.2d 580 (1995).

The court rejected the contention that when an individual does not appear in the proceedings below, but seeks to appeal a final action under the Administrative Procedures Act, he must set out in his petition how the issuance of the permit will harm him; instead, in order to have standing, a petitioner must assert in his pleadings how he has already sustained or is immediately in danger of sustaining injury either in his person, business, or property as a consequence of the final action. *Ark. Alcoholic Bev. Control v. Muncrief*, 74 Ark. App. 221, 45 S.W.3d 438 (2001).

Cited: *Norton v. Blaylock*, 409 F.2d 772 (8th Cir. 1969); *Floyd v. Arkansas State Bd. of Pharmacy*, 248 Ark. 459, 451 S.W.2d 874 (1970); *Arkansas State Bd. of Pharmacy v. Whayne*, 248 Ark. 934, 454 S.W.2d 667 (1970); *Arkansas State Racing Comm'n v. Sayler*, 249 Ark. 913, 462 S.W.2d 472 (1971); *Arkansas Sav. & Loan Ass'n Bd. v. Corning Sav. & Loan Ass'n*, 252 Ark. 264, 478 S.W.2d 431 (1972); *Norton v. Blaylock*, 285 F. Supp. 659 (W.D. Ark. 1973); *Hickman v. Arkansas Bd. of Pardons & Paroles*, 361 F. Supp. 864 (E.D. Ark. 1973); *Jarvis v. ABC Bd.*, 253 Ark. 728, 488 S.W.2d 712 (1973); *Arkansas Racing Comm'n v. Emprise Corp.*, 254 Ark. 975, 497 S.W.2d 34 (1973); *Thomas v. Committee "A"* Ark. State Plant Bd., 255 Ark. 517, 501 S.W.2d 248 (1973); *Selig v. Novak*, 256 Ark. 278, 506 S.W.2d 825 (1974); *Hewitt v. Gage*, 257 Ark. 579, 519 S.W.2d 749 (1975); *Jones v. Reed*, 267 Ark. 237, 590 S.W.2d 6 (1979); *Citizens Bank v. Arkansas State Banking Bd.*, 271 Ark. 703, 610 S.W.2d 257 (1981); *Snyder v. ABC Bd.*, 1 Ark. App. 92, 613 S.W.2d 126 (1981); *Copeland v. ABC Bd.*, 4 Ark. App. 143, 628 S.W.2d 588 (1982); *Rowell v. Austin*, 276 Ark. 445, 637 S.W.2d 531 (1982); *Johnson v. Arkansas ABC Bd.*, 6 Ark. App. 366, 642 S.W.2d 335 (1982); *Fayetteville Sch. Dist. No. 1 v. ABC Bd.*, 279 Ark. 89, 648 S.W.2d 804 (1983); *Arkansas Dep't of Human*

Servs. v. Donis, 280 Ark. 169, 655 S.W.2d 452 (1983); *ABC Div. v. Barnett*, 285 Ark. 189, 685 S.W.2d 511 (1985); *Livingston v. Arkansas State Medical Bd.*, 288 Ark. 1, 701 S.W.2d 361 (1986); *Patterson v. Hillcrest Home*, 299 Ark. 27, 770 S.W.2d 654 (1989); *Arkansas State Bd. of Cosmetology v. Roberts*, 28 Ark. App. 249, 772 S.W.2d 624 (1989); *Arkansas Dep't of Human Servs. v. Heath*, 307 Ark. 147, 817 S.W.2d 885 (1991); *Edwards v. ABC Div.*, 307 Ark. 245, 819 S.W.2d 271 (1991); *Hollabaugh v. Arkansas State Medical Bd.*, 43 Ark. App. 83, 861 S.W.2d 317 (1993); *Arkansas Dep't of Human Servs. v. Walters*, 315 Ark. 204, 866 S.W.2d 823 (1993); *Volunteer Council v. Governmental Bonding Bd.*, 319 Ark. 716, 894 S.W.2d 580 (1995); *Thomas v. Arkansas Dep't of Human Servs.*, 319 Ark. 782, 894 S.W.2d 584 (1995); *Bohannon v. Arkansas State Bd. of Nursing*, 320 Ark. 169, 895 S.W.2d 923 (1995); *Regional Care Facilities, Inc. v. Rose Care, Inc.*, 322 Ark. 767, 912 S.W.2d 409 (1995); *Douglass v. Nationwide Mut. Ins. Co.*, 323 Ark. 105, 913 S.W.2d 277 (1996); *Arkansas Appraiser Licensing & Certification Bd. v. Fletcher*, 326 Ark. 628, 933 S.W.2d 789 (1996); *Mid-South Rd. Bldrs., Inc. v. Arkansas Contractors Licensing Bd.*, 328 Ark. 630, 946 S.W.2d 649 (1997); *Social Work Licensing Bd. v. Moncebaiz*, 332 Ark. 67, 962 S.W.2d 797 (1998); *Arkansas Bd. of Exm'rs. v. Carlson*, 334 Ark. 614, 976 S.W.2d 934 (1998); *Arkansas Bd. of Registration for Professional Geologists v. Ackley*, 64 Ark. App. 325, 984 S.W.2d 67 (1998); *Brown v. Arkansas State Heating, Ventilation, Air Conditioning & Refrigeration Licensing Bd.*, 336 Ark. 34, 984 S.W.2d 402 (1999); *McQuay v. Arkansas State Bd. of Architects*, 337 Ark. 339, 989 S.W.2d 499 (1999); *Ford v. Keith*, 338 Ark. 487, 996 S.W.2d 20 (1999); *Arkansas Contractors Licensing Bd. v. Pegasus Renovation Co.*, 347 Ark. 320, — S.W.3d —, 2001 Ark. LEXIS 700 (2001).

25-15-213. Hearings generally.

In every case of adjudication, and in cases of rule making in which rules are required by law to be made on the record after opportunity for an agency hearing, and in cases of rule making in which, pursuant to § 25-15-204(a)(2), the agency shall direct that oral testimony be taken or a hearing held:

(1) Any person compelled to appear before any agency or representative thereof shall have the right to be accompanied and advised by counsel. Every party shall have the right to appear in person or by counsel;

(2)(A) There shall preside at the hearing:

- (i) The agency;
- (ii) One (1) or more members of the agency; or
- (iii) One (1) or more examiners or referees designated by the agency.

(B) All presiding officers and all officers participating in decisions shall conduct themselves in an impartial manner and may at any time withdraw if they deem themselves disqualified.

(C) Any party may file an affidavit of personal bias or disqualification. The affidavit shall be ruled on by the agency and granted if timely, sufficient, and filed in good faith;

(3)(A) Presiding officers shall have power, pursuant to published procedural rules of the agency:

- (i) To issue subpoenas if the agency is authorized by law to issue them;
- (ii) To administer oaths and affirmations;
- (iii) To maintain order;
- (iv) To rule upon all questions arising during the course of a hearing or proceeding;
- (v) To permit discovery by deposition or otherwise;
- (vi) To hold conferences for the settlement or simplification of issues;
- (vii) To make or recommend decisions; and
- (viii) Generally to regulate and guide the course of the pending proceeding.

(B) In any proceeding before any agency, if any person refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or refuses to obey any lawful order of an agency contained in its decision rendered after hearing, the agency or the presiding officer of the agency hearing may apply to the circuit court of the county where the proceedings were held or are being held or to the circuit court of the county where a petition for judicial review was filed for an order directing that person to take the requisite action or to otherwise comply with the order of the agency. The court shall issue the order in its discretion. Should any person willfully fail to comply with an order so issued, the court shall punish him or her as for contempt;

(4) Except as otherwise provided by law, the proponent of a rule or order shall have the burden of proof. Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted of record. When a hearing will be expedited and the interests of

the parties will not be substantially prejudiced, any part of the evidence may be received in written form;

(5) Parties shall have the right to conduct such cross examination as may be required for a full and true disclosure of the facts; and

(6) Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of material so noticed, including any staff memoranda or data, and shall be afforded a reasonable opportunity to show the contrary.

History. Acts 1967, No. 434, § 9; 1969, No. 82, § 1; A.S.A. 1947, § 5-709; Acts 2001, No. 1648, § 6.

A.C.R.C. Notes. Acts 2001, No. 1648, was not properly engrossed. Subdivisions (3)(A)(ii) and (iii) were omitted from the act but not specifically deleted from the section. As the omission was apparently

an oversight, subdivisions (3)(A)(ii) and (iii) have been retained.

Amendments. The 2001 amendment inserted "or to the circuit court of the county where a petition for judicial review was filed" in (3)(B), and made minor stylistic changes.

CASE NOTES

ANALYSIS

Evidence.

Impartiality of officers.

Respondent's rights.

Evidence.

Where board accepted statement as to the testimony of witnesses, action of board in not hearing the testimony was not prejudicial. *Jones v. Reed*, 267 Ark. 237, 590 S.W.2d 6 (1979).

The results of a polygraph examination were not the type of evidence commonly relied upon by reasonably prudent men in the conduct of their affairs. *Baxter v. Arkansas State Bd. of Dental Exmrs.*, 269 Ark. 67, 598 S.W.2d 412 (1980).

Testimony held admissible under subsection (4). *Stringfellow v. ABC Bd.*, 3 Ark. App. 124, 623 S.W.2d 213 (1981).

Impartiality of Officers.

Commission was properly reversed where fairness of one of the commissioners was subject to reasonable suspicion based upon statements made in relation to the matter involved in the hearing. *Arkansas Racing Comm'n v. Emprise Corp.*, 254 Ark. 975, 497 S.W.2d 34 (1973).

Board member held not disqualified by pronouncement prior to the conclusion of the hearing that the license should be suspended, where the comment was made after admissions of misconduct had al-

ready been made by licensee. *Arkansas State Medical Bd. v. Elliott*, 263 Ark. 86, 563 S.W.2d 427, cert. denied, 439 U.S. 862, 99 S. Ct. 183, 58 L. Ed. 2d 171 (1978).

Based on the existence and content of an ex parte communication, particularly when viewed in conjunction with the hearing officer's actions after the discussion was brought to light, the appearance of a fair hearing was compromised and the decision was properly reversed. *Madden v. United States Assocs.*, 40 Ark. App. 143, 844 S.W.2d 374 (1992).

Respondent's Rights.

Although respondent had right to appear at hearing in person or by counsel, it was not required that notice of hearing recite these rights. *Thomas v. Committee "A" Ark. State Plant Bd.*, 255 Ark. 517, 501 S.W.2d 248 (1973).

Although this subchapter gives the respondent in an administrative proceeding the right to appear by counsel and to present and cross-examine witnesses, the administrative board is under no duty to warn respondents of such rights. *Arkansas State Medical Bd. v. Elliott*, 263 Ark. 86, 563 S.W.2d 427, cert. denied, 439 U.S. 862, 99 S. Ct. 183, 58 L. Ed. 2d 171 (1978).

Cited: *Travelers Indem. Co. v. Monroe*, 257 Ark. 1029, 522 S.W.2d 431 (1975); *City of Hector v. Arkansas Soil & Water Conservation Comm'n*, 47 Ark. App. 177, 888 S.W.2d 312 (1994).

25-15-214. Failure of agency to act — Action by injured party.

In any case of rule making or adjudication, if an agency shall unlawfully, unreasonably, or capriciously fail, refuse, or delay to act, any person who considers himself or herself injured in his or her person, business, or property by the failure, refusal, or delay may bring suit in the circuit court of any county in which he or she resides or does business, or in Pulaski County Circuit Court, for an order commanding the agency to act.

History. Acts 1967, No. 434, § 7; A.S.A. 1947, § 5-707; Acts 2001, No. 1648, § 7.

Publisher's Notes. The provision of this section conferring jurisdiction on the chancery courts was declared unconstitu-

tional in *Harber v. Rhodes*, 248 Ark. 1188, 455 S.W.2d 926 (1970).

Amendments. The 2001 amendment substituted "Circuit" for "Chancery," and made gender neutral changes.

CASE NOTES

ANALYSIS

Constitutionality.
Failure to act.

Constitutionality.

The designation of the chancery court as the court in which to bring suit to compel action by an agency is unconstitutional and, upon sustaining a demurrer to a complaint for mandamus on the ground of such unconstitutionality, it was appro-

priate for the chancery court to transfer the case to law. *Harber v. Rhodes*, 248 Ark. 1188, 455 S.W.2d 926 (1970).

Failure to Act.

The sufficiency of a notice of hearing given by an agency does not constitute a failure or refusal to act under this section, and a circuit court is thus without jurisdiction on this matter. *Arkansas State Medical Bd. v. Cross*, 256 Ark. 388, 507 S.W.2d 709 (1974).

25-15-215. Model rules.

(a)(1) The Attorney General shall publish model rules of procedure for use by agencies.

(2) The model rules shall include general functions and duties commonly performed by agencies.

(b)(1) Each agency created after August 13, 2001, shall adopt, in accordance with the provisions of this subchapter, those model rules that are practicable.

(2) Any agency that adopts a rule of procedure that differs from the model rule, in conjunction with adopting the rule of procedure, shall state the reason why the relevant portions of the model rules are impracticable.

History. Acts 2001, No. 1648, § 8.

25-15-216. Review of agency rules.

(a) As soon as is practicable after each regular session of the General Assembly, each agency shall review any newly enacted laws to determine whether:

- (1) Any existing rule should be repealed or amended; or
- (2) Any new rule should be adopted.

(b) At the conclusion of each review, the agency shall adopt a written report of the result of the review.

(c) A copy of each report shall be maintained as a public record by the agency.

History. Acts 2001, No. 1648, § 8.

25-15-217. Alternative sanctions.

(a)(1) Each agency which may suspend, revoke, or deny a license for acts or omissions or other conduct as provided by law may impose alternative sanctions set forth in subsection (b) of this section.

(2) The penalties set forth in subsection (b) of this section shall be supplemental to any agency's authority to impose penalties upon any person or entity under the agency's jurisdiction.

(b) Each agency may impose on any person or entity under the agency's jurisdiction:

(1) A monetary penalty not to exceed five hundred dollars (\$500) for each violation;

(2) A requirement that the person complete appropriate education programs or courses, or both;

(3) A requirement that the person or entity successfully complete:

(A) A licensing examination;

(B) A credentialing examination; or

(C) Any other examination required in order to obtain a permit, license, registration, or credential;

(4) Conditions or restrictions upon regulated activities of the holder of a license, permit, certificate, credential, registration, or other authority; and

(5) Other requirements or penalties as may be appropriate under the circumstances of the case and which would achieve the agency's desired disciplinary purposes, but which would not impair the public health and welfare.

(c) The agency may file suit to collect any monetary penalty assessed pursuant to this subchapter, if the penalty is not paid within the time prescribed by the agency, in either Pulaski County Circuit Court or the circuit court of any county in which the person or entity under the agency's jurisdiction:

(1) Resides; or

(2) Does business.

(d) Upon imposition of a sanction against a person or entity under the agency's jurisdiction, the agency may order that the license, permit, certification, credential, or registration be suspended until the person or entity has complied in full with all applicable sanctions imposed pursuant to this section.

(e)(1) Each violation shall constitute a separate violation.

(2) The power and authority of the agency to impose a sanction authorized in this section shall not be affected by any other civil or criminal proceeding concerning the same violation.

History. Acts 2001, No. 1648, § 8.

CHAPTER 16

STATE OFFICERS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. GOVERNOR.
3. LIEUTENANT GOVERNOR.
4. SECRETARY OF STATE.
5. AUDITOR OF STATE.
6. TREASURER OF STATE.
7. ATTORNEY GENERAL.
8. MEMBERS OF BOARDS AND COMMISSIONS.
9. STATE BOARDS — COMPENSATION.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

25-16-101. Salaries of Executive Department elected officials.

SECTION.

25-16-102. [Repealed.]

Effective Dates. Acts 1995, No. 494, § 6: became law without Governor's signature. Noted Feb. 23, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that Amendment 70 of the Constitution of Arkansas provides that salaries of the Executive Department officials may be increased annually by an amount not to exceed the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor, for the two years immediately preceding the year of the salary appropriation; that this act establishes the proper salaries for the Executive Department; that the delay in the effective date of this act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 1175, § 6: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-first General Assembly, that Amendment 70 of the Constitution of Arkansas provides

that salaries of the Executive and Legislative Department officials may be increased annually by an amount not to exceed the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor, for the two years immediately preceding the year of the salary appropriation; that this act establishes the proper salaries for the Executive and Legislative Departments; that the delay in the effective date of this act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1999, No. 1508, § 19: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-Second General Assembly that this act makes various technical corrections in the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order

to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither

approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-16-101. Salaries of Executive Department elected officials.

The salaries of the following elected officials shall be as follows:

| TITLE | FISCAL YEARS | |
|-----------------------------|--------------|----------|
| | 1997-98 | 1998-99 |
| GOVERNOR | \$65,182 | \$67,007 |
| LIEUTENANT GOVERNOR | \$31,505 | \$32,387 |
| SECRETARY OF STATE | \$40,739 | \$41,880 |
| ATTORNEY GENERAL | \$54,318 | \$55,839 |
| TREASURER OF STATE | \$40,739 | \$41,880 |
| COMMISSIONER OF STATE LANDS | \$40,739 | \$41,880 |
| AUDITOR OF STATE | \$40,739 | \$41,880 |

History. Acts 1997, No. 1175, § 1.

A.C.R.C. Notes. This section was formerly codified as § 25-16-102.

Cross References. Executive Department and General Assembly salaries and restrictions on expense reimbursements, Ark. Const. Amend. 70.

25-16-102. [Repealed.]

Publisher's Notes. This section concerning Salaries of Executive Department elected officials was repealed by Acts 1999, No. 1508, § 15. The section was derived from Acts 1995, No. 494, § 1.

This section was formerly codified as § 25-16-101. Former § 25-16-102 is now codified as § 25-16-101.

SUBCHAPTER 2 — GOVERNOR

| | |
|---|--|
| SECTION. | SECTION. |
| 25-16-201. Reorganization of agencies to meet federal program requirements. | 25-16-204. Appointment of commissioners in other states. |
| 25-16-202. [Repealed.] | 25-16-205. Transition funds. |
| 25-16-203. Reports to Governor — Inclusion in message to General Assembly. | 25-16-206. [Repealed.] |

Preambles. Acts 1853, p. 127 contained a preamble which read: "Whereas, it is proper that the Governor should have in his possession the reports of the various

state officers, showing the condition of the affairs of the state, to enable him to prepare his message to the General Assembly, with convenience, and based on official information; therefore...."

Acts 1983, No. 186 contained a preamble which read: "For the purpose of this Act, "transition funds" shall mean any funds advanced to an individual who has been elected Governor during the general election of each election year. However, this Act shall not apply to a person who is reelected during the general election to the Office of Governor."

Effective Dates. Acts 1846, p. 72, § 5: effective on passage.

Acts 1853, p. 127, § 3: effective on passage.

Acts 1971, No. 139, § 2: Feb. 22, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the reorganization of the state agencies within the executive de-

partment of government effectuated by the Sixty-Eighth General Assembly may, in certain circumstances, jeopardize the state's continued participation in federal programs benefitting the people of this state, or may jeopardize the state's opportunity to obtain the benefits of new or expanded federal programs, and that the immediate passage of this act is necessary to enable the Governor, by executive order, to effectuate such additional reorganizations within the executive department of government as may be mandated by federal law or regulations promulgated thereunder, to enable the State of Arkansas to continue to obtain the benefits of federal programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

RESEARCH REFERENCES

ALR. Construction and application, under state law, of doctrine of "executive privilege". 10 ALR 4th 355.

Validity, construction, and effect of state statutes restricting political activities of

public officers or employees. 51 ALR 4th 702.

Am. Jur. 38 Am. Jur. 2d, Gov., § 2 et seq.

C.J.S. 81A C.J.S., States, § 130.

25-16-201. Reorganization of agencies to meet federal program requirements.

(a) In order to protect the state's participation in various federal programs and to continue to obtain the benefits of those programs for the people of this state or where necessary to obtain the benefits of new or expanded federal programs, the Governor is authorized, by executive order, to establish, combine, abolish, or otherwise reorganize any of the agencies, departments, divisions, sections, or units within the executive department of government where the changes or reorganizations are necessary to comply with the applicable federal law or regulations governing federal programs.

(b) However, whenever any executive order may move from the jurisdiction of any office, department, institution, or other agency, any authority or jurisdiction of the agency in effect at the time of the order, the order shall be subject to confirmation by the General Assembly in the next following regular or special session, and the General Assembly by joint resolution may rescind the executive order.

History. Acts 1971, No. 139, § 1; A.S.A. 1947, § 12-311.

25-16-202. [Repealed.]

Publisher's Notes. This section, concerning enabling legislation for interim agencies and programs, was repealed by Acts 1987, No. 646, § 5. The section was derived from Acts 1981, No. 605, § 4; 1981, No. 686, § 4; A.S.A. 1947, § 4-152.1.

25-16-203. Reports to Governor — Inclusion in message to General Assembly.

The Auditor of State and Treasurer of State shall make their respective reports for each biennial session to the Governor on or before October 10 next preceding the regular meeting of the General Assembly. The Governor shall cause the reports to be printed with his or her biennial message and have them ready for the General Assembly on or before the Wednesday of the first week of the session of the General Assembly.

History. Acts 1853, § 1, p. 127; C. & M. Dig., § 4387; Pope's Dig., § 5399; A.S.A. 1947, § 12-302. **Cross References.** Quarterly reports of state officers to be included in message, § 21-7-303.

25-16-204. Appointment of commissioners in other states.

(a) The Governor may nominate, appoint, and commission, under the Great Seal of Arkansas, or may continue in office one (1) or more commissioners within any other state or territory of the United States. The commissioners shall serve at the pleasure of the Governor then in office and shall have power to administer oaths and affirmations and to take depositions, affidavits, and the proof and acknowledgment of deeds or other instruments of writing, under seal, to be used or recorded in this state.

(b) All oaths administered by the commissioners, all affidavits and depositions taken by them, and all acknowledgments, etc., certified by them shall be as effectual in law, to all intents and purposes, as if done and certified by any justice of the peace or other authorized officer within this state.

(c) Before any commissioner shall proceed to discharge any of the duties of his or her appointment, he or she shall take and subscribe an oath before some justice of the peace, or other officer authorized to administer oaths in the state for which the commissioner is appointed, that he or she will well and faithfully discharge all the duties of his or her appointment. The oath, together with the signature and an impression of the seal of the commissioner, shall be filed in the office of the Secretary of State within six (6) months after its taking.

History. Acts 1846, §§ 1-3, p. 72; C. & M. Dig., §§ 1424-1426; Pope's Dig., §§ 1671-1673; A.S.A. 1947, §§ 12-1501 — 12-1503.

CASE NOTES

ANALYSIS

Affidavits.
Certificates.
Depositions.
Term of office.

Affidavits.

The affidavits to procure an attachment may be made before a commissioner. *Grider v. Williams*, 25 Ark. 1 (1867).

Commissioner may take affidavits to authenticate claims against an estate. *Kaufman & Co. v. Stone*, 25 Ark. 336 (1869).

Certificates.

A commissioner's certificate proves itself, and needs no authentication. *Smith & Bro. v. Van Gilder*, 26 Ark. 527 (1871).

Depositions.

Depositions taken before a commissioner of deeds appointed by the governor of this state to act in another state may be read in evidence, without other proof of the appointment and authority of such commissioner than his own certificate and official seal. *Johnson v. Cocks*, 12 Ark. (7 English) 672 (1852).

Term of Office.

The term of office of a commissioner does not expire with the term of office of the governor appointing him. *Kaufman & Co. v. Stone*, 25 Ark. 336 (1869).

25-16-205. Transition funds.

(a) For the purpose of this section, "transition funds" shall mean any funds advanced to an individual who has been elected Governor during the general election of each election year. However, this section shall not apply to a person who is reelected during the general election to the Office of Governor.

(b) The Director of the Department of Finance and Administration shall issue limitations and guidelines on the expenditure of transition funds and make those limitations and guidelines a part of any appropriation.

(c)(1) The expenditure of transition funds is limited to the direct expenses of the activities relating to the new office holder preparing to take office in January following the general election.

(2) The expenditure of transition funds and other related charges incurred by a newly elected officer in the performance of his or her duties to prepare for service as a public official shall be limited to those expenditures which are directly related to his or her assuming office in January. It is prohibited to use any transition funds for the purpose of paying a salary to a newly elected official prior to his or her assuming the office.

(d) The Division of Legislative Audit is authorized and directed to perform an audit on the expenditures of transition funds. The audit shall be presented to the Legislative Joint Auditing Committee and the Legislative Council during the biennium following the expenditure of the funds.

History. Acts 1983, No. 186, §§ 1-5;
A.S.A. 1947, §§ 12-326 — 12-330.

25-16-206. [Repealed.]

Publisher's Notes. This section, concerning the Division of Volunteerism, was repealed by Acts 1993, No. 403, § 19. A former similar section was derived from

Acts 1977, No. 865, §§ 1-4; A.S.A. 1947, §§ 12-322 — 12-325; Acts 1989, No. 143, § 1; 1989, No. 186, § 1. For present law see § 25-10-128.

SUBCHAPTER 3 — LIEUTENANT GOVERNOR

SECTION.

25-16-301. Custodian of Senate Chamber and records.

SECTION.

25-16-302. [Repealed.]

Effective Dates. Acts 1953, No. 219, § 6; Mar. 5, 1953. Emergency clause provided: "It is found and declared by the General Assembly of the State of Arkansas that the services of an administrative assistant are essential to the operation of

the Lieutenant Governor's office; therefore this act being necessary for the preservation of the public peace, health, and safety, an emergency is declared to exist, and this act shall take effect and be in full force from and after its approval."

RESEARCH REFERENCES

ALR. Validity, construction, and effect of state statutes restricting political activities of public officers or employees. 51 ALR 4th 702.

C.J.S. 81A C.J.S., States, § 131.

25-16-301. Custodian of Senate Chamber and records.

The Lieutenant Governor is the custodian of the Senate Chamber, all Senate rooms, and the records, machines, furniture, fixtures, and supplies therein.

History. Acts 1953, No. 219, § 1; A.S.A. 1947, § 12-308.

25-16-302. [Repealed.]

Publisher's Notes. This section, concerning the lieutenant governor's administrative assistant, was repealed by Acts

1995, No. 1296, § 83. The section was derived from Acts 1953, No. 219, §§ 2, 3; A.S.A. 1947, §§ 12-309, 12-310.

SUBCHAPTER 4 — SECRETARY OF STATE

SECTION.

25-16-401. Bond.

25-16-402. Deputy.

25-16-403. Powers and duties generally.

SECTION.

25-16-404. [Repealed.]

25-16-405. Arkansas Ambassador's Certificate.

Cross References. Secretary of State not to hold other office, Ark. Const., Art. 6, § 22.

State institutions, Secretary of State not entitled to membership on boards of management, § 25-17-203.

Monthly reports of fees to Treasurer of State, § 21-7-203.

Quarterly reports of Secretary of State, § 21-7-301.

Restriction on printing of biennial report, § 21-7-401.

Effective Dates. Acts 1845, p. 45, § 7: effective on passage.

Acts 1895, No. 19, § 5: became law without Governor's signature, Feb. 22, 1895.

Acts 1923, No. 136, § 3: Emergency declared.

RESEARCH REFERENCES

ALR. Validity, construction, and effect of state statutes restricting political activities of public officers or employees. 51 ALR 4th 702.

Am. Jur. 72 Am. Jur. 2d, States, § 63.

C.J.S. 81A C.J.S., States, § 132.

25-16-401. Bond.

The Secretary of State, before he or she enters upon the discharge of his or her duties, shall enter into bond, with good and sufficient security to the Governor and his or her successors in office, in the sum of five thousand dollars (\$5,000). The bond shall be approved by the Governor and conditioned that the Secretary of State will well and truly perform and discharge the several trusts and duties of Secretary of State and in all things touching and concerning the office shall well, truly, and faithfully execute and perform them. This bond shall be filed with the Auditor of State.

History. Acts 1849, § 5, p. 75; C. & M. Dig., § 4391; Pope's Dig., § 5406; A.S.A. 1947, § 12-401.

A.C.R.C. Notes. The operation of this section was suspended by adoption of a self-insured fidelity bond program for pub-

lic officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The section may again become effective upon cessation of coverage under that program. See § 21-2-703.

CASE NOTES

Liability.

Where, under former law, the Secretary of State was required to file a bond as a disbursing agent and a shortage resulted from his acts as disbursing agent, the court held that the amount of liability under the disbursing agent's bond must be

exhausted before the question of liability on the official bond as Secretary of State could be considered. *American Sur. Co. v. Fidelity & Deposit Co.*, 204 Ark. 857, 165 S.W.2d 65 (1942) (decision under prior law).

25-16-402. Deputy.

(a) The Secretary of State may appoint a deputy to aid him or her in the discharge of his or her duties whose acts, performed in the name of the Secretary of State, shall have the same validity as the acts of his or her principal.

(b) The deputy, before he or she enters upon the performance of his or her duties, shall take an oath, which will be endorsed upon his or her letter of appointment, that he or she will perform all the duties of his or her office faithfully and according to law.

(c) The corporation clerk of the office of Secretary of State shall also be a deputy Secretary of State.

History. Acts 1845, §§ 1, 7, p. 45; C. & Pope's Dig., §§ 5414, 5442; A.S.A. 1947, M. Dig., § 4399; Acts 1923, No. 136, § 1; §§ 12-409, 12-410, 12-412.

25-16-403. Powers and duties generally.

(a) The Secretary of State shall reside and keep his or her office at the seat of government and shall have the custody of all records, rolls, and documents which properly belong to the state.

(b) He or she shall keep a register of all the official acts and proceedings of the Governor and, when required, shall lay the register and all papers, minutes, and vouchers relative to the register before the General Assembly.

(c) He or she shall affix the seal of the state and attest all commissions issued by the Governor and all other official acts of the Governor which require the seal of the state.

(d) In addition to the other duties required by law of the Secretary of State, he or she shall receive from the Secretary of the Senate and Clerk of the House of Representatives the records, books, papers, and rolls of the General Assembly and file them as records of his or her office.

(e)(1) The Secretary of State shall keep a seal of office surrounded with the words "Seal of the Secretary of State, Arkansas" and shall make out and deliver, to any person requiring them, copies of any act, resolution, or order of the General Assembly, commissions, or other official acts of the Governor and of all rolls, records, documents, papers, bonds, and recognizances deposited in his or her office and required by law to be kept there.

(2) He or she shall certify the copies under his or her hand and affix the seal of his or her office thereto. The copies so authenticated shall be received in evidence in any court in this state with like effect as the original.

History. Acts 1849, §§ 1, 3, 4, p. 75; C. & M. Dig., §§ 4121, 4392, 4397, 4398, 4400; Pope's Dig., §§ 5130, 5407, 5412, 5413, 5415; A.S.A. 1947, §§ 12-402 — 12-405.

Issuance of grants, commissions, Ark. Const., Art. 6, § 10.

Record of official acts, Ark. Const., Art. 6, § 21.

Cross References. Fees of Secretary of State, § 21-6-202.

RESEARCH REFERENCES

Ark. L. Rev. Documentary Evidence — Arkansas, 15 Ark. L. Rev. 79.

CASE NOTES

ANALYSIS

Copies as evidence.

Records of general assembly.

Copies as Evidence.

The proof of publication of notice of intention to introduce a local bill attached to the act when filed in the office of the Secretary of State did not come within the terms of subsection (e) since the proof was not a record required by law to be kept by the Secretary. *Wacaster v. City of Hot Springs*, 165 Ark. 521, 265 S.W. 59 (1924).

Records of General Assembly.

Upon proof that a report of the state debt board has been lost, a copy of it, embodied in the original journal of the senate, may be read in evidence. *Woodruff v. State*, 61 Ark. 157, 32 S.W. 102 (1895).

Records of Secretary of State must be considered along with the journals of each house in determining whether a bill has passed both houses. *Butler v. Board of Dirs.*, 103 Ark. 109, 146 S.W. 120 (1912).

25-16-404. [Repealed.]

Publisher's Notes. This section, requiring the Secretary of State to make a biennial report to the Governor, was repealed by Acts 1997, No. 256, § 2. The

section was derived from Acts 1895, No. 19, §§ 1, 2, 4, p. 23; C. & M. Dig., § 4407; Pope's Dig., § 5422; A.S.A. 1947, §§ 12-406 — 12-408.

25-16-405. Arkansas Ambassador's Certificate.

The Secretary of State shall have the authority to issue an Arkansas Ambassador's Certificate, which may be given to citizens of the State of Arkansas who will be traveling outside the state. The Secretary of State may adopt such reasonable rules and regulations as may be necessary for the effective implementation of this section.

History. Acts 1993, No. 1058, § 1.

SUBCHAPTER 5 — AUDITOR OF STATE

SECTION.

25-16-501. Violation of law by Auditor of State.

25-16-502. Bond.

25-16-503. Seal.

25-16-504. Deputy.

25-16-505. Duties generally.

25-16-506. Access to other offices.

25-16-507. Power to administer oaths.

25-16-508. Blanks for commissions and teachers' licenses.

25-16-509. Certification of payments.

25-16-510. Auditor of State as state accountant.

25-16-511. Recordkeeping requirements.

25-16-512. Examination of records by joint legislative committee — Report.

SECTION.

25-16-513. Biennial report.

25-16-514. Quarterly report of Treasurer of State's accounts.

25-16-515. Accounting at expiration of term of appropriation.

25-16-516. Warrants — Form and record.

25-16-517. Warrants — Restrictions on issuance.

25-16-518. Warrants — Prohibitions against receipt in payment of debt to state, use as offset, and bearing of interest.

25-16-519. Warrants — Issuance of duplicates.

Cross References. Auditor of State not to hold other office, Ark. Const., Art. 6, § 22.

State institutions, Auditor of State not entitled to membership on boards of management, § 25-17-203.

Preambles. Acts 1853, p. 127 contained a preamble which read: "Whereas, it is proper that the Governor should have in his possession the reports of the various state officers, showing the condition of the affairs of the state, to enable him to prepare his message to the General Assembly, with convenience, and based on official information; therefore...."

Effective Dates. Acts 1853, p. 127, § 3: effective on passage.

Acts 1866, No. 4, § 3: effective on passage.

Acts 1868, No. 35, § 3: effective on passage.

Acts 1875 (Adj. Sess.), No. 34, § 2: Nov. 30, 1875.

Acts 1877, No. 29, § 2: effective on passage.

Acts 1881, No. 97, § 2: became law without Governor's signature, Apr. 9, 1881.

Acts 1883, No. 17, § 4: effective on passage.

Acts 1883, No. 114, § 226: effective on passage.

Acts 1915, No. 104, § 5: approved Mar. 3, 1915. Emergency declared.

Acts 1921, No. 321, § 2: Mar. 15, 1921. Emergency declared.

Acts 1953, No. 334, § 4: July 1, 1953.

Acts 1983, No. 697, § 3[4]: Mar. 23, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that procedures are needed whereby the State Treasurer may obtain reimbursement on any uncollectible State warrants or checks received by the Office in a normal course of business, and that the methods set forth in this Act will provide a procedure whereby the State Treasurer may obtain such reimbursement in a businesslike manner; and that the immediate passage of this Act is necessary to enable the State Treasurer to perform the duties of said Office in a businesslike manner. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1453, § 49: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that proper and effective management requires that changes to the state's finance and accounting laws begin on the first day of the fiscal year and that if there is an extended recess of the General Assembly, the required ninety day period may extend past July 1. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

RESEARCH REFERENCES

ALR. Validity, construction, and effect of state statutes restricting political activities of public officers or employees. 51 ALR 4th 702.

Am. Jur. 72 Am. Jur. 2d, States, § 65.
C.J.S. 81A C.J.S., States, § 134.

25-16-501. Violation of law by Auditor of State.

If the Auditor of State shall willfully neglect or refuse to perform any duty enjoined by law, or shall be guilty of any oppression or extortion in the performance of any legal duty, or shall receive any fee or reward for the performance of any legal duty not allowed by law, or shall by color of his or her office knowingly do any act not authorized by law, or shall use any of the moneys belonging to the state, or shall perform any other duty of his or her office in any other manner than is required by law, then he or she shall be deemed guilty of a misdemeanor in office and

upon conviction, he or she shall forfeit for the use of the state any sum not less than one hundred dollars (\$100).

History. Rev. Stat., ch. 18, § 34; C. & M. Dig., § 2812; Pope's Dig., § 3530; A.S.A. 1947, § 12-537. **Publisher's Notes.** Rev. Stat., ch. 18, § 34, is also codified as § 25-16-601.

25-16-502. Bond.

(a) Immediately after his or her election, the Auditor of State shall execute and deliver to the Governor a bond to the State of Arkansas, with good and sufficient securities, in the sum of one hundred thousand dollars (\$100,000), conditioned for the faithful performance of all the duties required, or which may be required, of him or her by law.

(b) The Governor shall endorse on the bond of the Auditor of State his or her approval of the bond, stating the time of approval, and deliver the endorsed bond to the Secretary of State, who shall file it among the records of his or her office.

(c) If any Auditor of State shall neglect or refuse to enter into bond within ten (10) days after the Governor is officially informed of his or her election, then the Office of Auditor of State shall be deemed and considered vacant.

History. Rev. Stat., ch. 18, §§ 2, 3, 5; Acts 1861, No. 81, § 2, p. 174; C. & M. Dig., §§ 4386, 4441, 4442; Pope's Dig., §§ 5398, 5476, 5477; A.S.A. 1947, §§ 12-501 — 12-503. **self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The section may again become effective upon cessation of coverage under that program. See § 21-2-703.**

A.C.R.C. Notes. The operation of this section was suspended by adoption of a

CASE NOTES

Approval. Failure of the Governor to approve the bond, or to endorse approval, does not destroy the contract obligation. Auditor v. Woodruff, 2 Ark. 73, 33 Am. Dec. 368 (1839).

25-16-503. Seal.

The Auditor of State shall keep a seal of office, which shall be used to authenticate all writings, papers, and documents required by law to be certified from his or her office.

History. Rev. Stat., ch. 18, § 6; C. & M. Dig., § 4443; Pope's Dig., § 5478; A.S.A. 1947, § 12-504. **Publisher's Notes.** Rev. Stat., ch. 18, § 6, is also codified as § 25-16-602.

25-16-504. Deputy.

(a) The Auditor of State is authorized to appoint one (1) deputy. The appointment shall be made in writing.

(b) The deputy so appointed shall take the oath prescribed by law. The oath shall be endorsed on the letter of appointment, and the letter of appointment shall be filed in the office of the Secretary of State.

(c) The Auditor of State shall be responsible on his or her official bond for all the acts done and performed by his or her deputy in the performance of his or her official duties.

(d) Every deputy appointed under this section shall possess all the powers of his or her principal and may perform any of the duties required by law to be performed by his or her principal.

History. Acts 1866, No. 4, §§ 1, 2, p. 20; C. & M. Dig., §§ 4444, 4445; Pope's Dig., §§ 5479, 5480; A.S.A. 1947, §§ 12-505, 12-506.

Publisher's Notes. Acts 1866, No. 4, §§ 1 and 2, are also codified as § 25-16-603.

25-16-505. Duties generally.

It shall be the duty of the Auditor of State:

(1) To audit, adjust, and settle all claims against the state payable out of the State Treasury, except those claims which may be expressly required by law to be audited and settled by some other officer or person;

(2) To draw all warrants upon the State Treasury for money, except in cases otherwise expressly provided by law;

(3) To audit, settle, and adjust the accounts of all collectors of revenue and other holders of public money who are required by law to pay the money into the State Treasury;

(4) To keep an account between the state and the Treasurer of State;

(5) To keep an account of all moneys paid into the State Treasury for the use of every county;

(6) To keep an account between the state and the United States, and between the state and every officer or person with whom the state may have dealings, and to keep an account of any separate fund in the State Treasury authorized by law;

(7) To direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue against all persons who by any means become possessed of public money or property and fail to pay over and deliver it and to direct prosecutions against all debtors of the state;

(8) To annually procure from the proper officer an abstract and description of all taxable lands within the state;

(9) To annually furnish the proper officer in each county in the month of January a descriptive list of all taxable lands in the county not previously furnished;

(10) To give information in writing to either house of the General Assembly, whenever required, upon any subject relating to the fiscal affairs of the state or touching any duty of his or her office; and

(11) To perform all such other duties as may be required by law.

History. Rev. Stat., ch. 18, § 9; C. & M. Dig., § 4456; Pope's Dig., § 5491; A.S.A. 1947, § 12-508; Acts 2001, No. 1453, § 4.

Amendments. The 2001 amendment deleted (3), redesignated the remaining subsections accordingly, and made related changes.

Cross References. Fees of Auditor of State, § 21-6-201.

Voter registration, duties, Ark. Const. Amend. 51, §§ 5, 8, 14.

CASE NOTES

ANALYSIS

Claims against state.
Mandamus.

Claims Against State.

Where the Auditor refuses to allow a claim, the claimant should apply for redress to the legislature. *Jobe v. Urquhart*, 102 Ark. 470, 143 S.W. 121, Ann. Cas. 1914A, 351 (1912).

Mandamus.

Where the Auditor, in the discharge of his appropriate duties, has a discretion in allowing or rejecting a claim against the state, and exercises it, his discretion cannot be controlled or reviewed by mandamus. *Danley v. Whitley*, 14 Ark. (1 Barber) 687 (1854).

25-16-506. Access to other offices.

The Auditor of State shall have free access to all the other offices of the state for the inspection, concerning his or her duties, of all books, accounts, and papers which they respectively contain.

History. Rev. Stat., ch. 18, § 30; C. & M. Dig., § 4447; Pope's Dig., § 5482; A.S.A. 1947, § 12-517.

Publisher's Notes. Rev. Stat., ch. 18, § 30, is also codified as § 25-16-605.

25-16-507. Power to administer oaths.

The Auditor of State shall have power to administer oaths required or allowed by law in all matters touching the duties of his or her office.

History. Rev. Stat., ch. 18, § 29; C. & M. Dig., § 4446; Pope's Dig., § 5481; A.S.A. 1947, § 12-507.

Publisher's Notes. Rev. Stat., ch. 18, § 29, is also codified as § 25-16-606.

25-16-508. Blanks for commissions and teachers' licenses.

(a) The Auditor of State shall have printed, under the contract made by the state, all blanks for commissions used in commissioning state, district, county, township, and municipal officers and notaries public and all blanks for use as state teachers' licenses.

(b) The Auditor of State shall charge each department furnished with printed blanks by the office of the Auditor of State the same fee for each blank as is paid for by each party securing commissions or teachers' licenses. He or she shall give the department to whom the commission or license is issued credit for each commission or license issued upon the filing in his or her office of the Treasurer of State's receipt for the amount required by law for the issuance of the commission or license.

(c) The Auditor of State shall credit each department at the end of each quarter for all commissions and licenses unused and for any which are destroyed, mutilated, or spoiled, upon proper proof thereof.

(d) It shall be a misdemeanor for any state officer, except the Auditor of State, to have any of the blanks printed under subsection (a) of this section. Any person violating any of the provisions of this section shall be fined in any sum not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200) for each offense.

History. Acts 1915, No. 104, §§ 3, 4; C. & M. Dig., §§ 4450, 4451; Pope's Dig., §§ 5485, 5486; A.S.A. 1947, §§ 12-515, 12-516.

subsection (b) to "the filing in his office of the Treasurer of State's receipt for the amount" may be obsolete in light of § 19-2-101.

Publisher's Notes. The reference in

25-16-509. Certification of payments.

Whenever any person indebted to the state, on any account whatever, shall present to the Auditor of State the Treasurer of State's receipt for the full payment of the amount due, it shall be the duty of the Auditor of State to furnish that person with a certificate, under the Auditor of State's hand and official seal, of the person having made full payment of all demands against him or her in favor of the state.

History. Rev. Stat., ch. 18, § 25; C. & M. Dig., § 4465; Pope's Dig., § 5500; A.S.A. 1947, § 12-520.

25-16-510. Auditor of State as state accountant.

The Auditor of State shall be the general accountant of the state and shall keep all public accounts, books, vouchers, documents, and all papers relating to the contracts of the state and its debts, revenue, and fiscal affairs which are not required by law to be placed in some other office or kept by some other person.

History. Rev. Stat., ch. 18, § 7; C. & M. Dig., § 4449; Pope's Dig., § 5484; A.S.A. 1947, § 12-509.

25-16-511. Recordkeeping requirements.

(a) The Auditor of State shall keep a letter book in which he or she shall copy all official letters which may be written by him or her.

(b)(1) All accounts, vouchers, and documents settled by the Auditor of State shall be preserved in his or her office, and copies of these records, authenticated by the official seal, shall be given to any person interested who may require them.

(2) However, the Auditor of State is authorized to destroy all vouchers and Treasurer of State's receipts on file in his or her office after the expiration of five (5) years from the date of their filing, provided that no

vouchers of any department or institution shall be destroyed while any legislative investigation of the department or institution is in progress.

(c)(1) The Auditor of State is authorized and directed to keep a register in his or her office of all checks which have been drawn upon state agency bank funds and approved for payment by the Director of the Department of Finance and Administration.

(2) The director is directed to transmit to the Auditor of State all documents and information necessary to prepare this register.

(3) The Auditor of State's register of bank fund checks and document files shall in all respects be equal to the records of state-appropriated funds required by law to be kept and maintained by the Auditor of State.

History. Rev. Stat., ch. 18, §§ 15, 31; 1947, §§ 12-510, 12-518, 12-519, 12-538 C. & M. Dig., §§ 4448, 4464; Acts 1921, — 12-540.
No. 321, § 1; Pope's Dig., §§ 5483, 5499, **Publisher's Notes.** Rev. Stat., ch. 18, 5501; Acts 1953, No. 334, §§ 1-3; A.S.A. § 31, is also codified as § 25-16-613.

25-16-512. Examination of records by joint legislative committee — Report.

(a) Immediately after the commencement of each session of the General Assembly, it shall be the duty of the Auditor of State to submit all his or her accounts, books, vouchers, and other official documents in his or her office to a joint committee of the General Assembly for examination and settlement.

(b) It shall be the duty of the committee to examine the books, accounts, vouchers, and other official documents of the Auditor of State and make report thereof to both houses of the General Assembly.

(c)(1) If each house shall approve the report of the committee, an order shall be made directing the committee to cause the proper entries to be made in the books of the Auditor of State, showing the result of the settlement.

(2) If the committee shall make an unfavorable report and find that the Auditor of State has not performed the duties required of him or her by law and if the report shall be approved by both houses of the General Assembly, an order shall be made directing the Governor to cause suit to be brought against the delinquent on his or her official bond.

History. Rev. Stat., ch. 18, §§ 36-39; C. & M. Dig., §§ 4477-4480; Pope's Dig., §§ 5513-5516; A.S.A. 1947, §§ 12-533 — 12-536. **Publisher's Notes.** Rev. Stat., ch. 18, §§ 36-39, are also codified as § 25-16-615.

25-16-513. Biennial report.

(a) It shall be the duty of the Auditor of State to digest and report to the Governor, prior to the commencement of each session of the General Assembly:

(1) A full and detailed statement of the condition of the revenue and the amount of the expenditure for the two (2) preceding fiscal years;

(2) A full and detailed statement of the public debt, if any;

(3) Estimates of the revenues and the amount of expenditures for the two (2) succeeding fiscal years;

(4) Any plans he or she may think expedient for the support of the public credit, for lessening the public expenses, for using the public money to the best advantage, for promoting economy in the public offices, and, generally, for the better management and more perfect understanding of the fiscal affairs of the state;

(5) A tabular statement showing separately the whole amount of each appropriation of money made by law, the amount paid under the appropriation, and the balance unexpended; and

(6) A tabular statement showing separately the amount of money received into the State Treasury from all sources in each fiscal year, the amount received from each county and from each source of revenue in each county.

(b) The Auditor of State is not required to report the railroad aid and levee bonds and what are known as the Holford bonds as part of the indebtedness of the State of Arkansas in his or her biennial report.

(c) It shall be the duty of the Auditor of State, in connection with the biennial report, to publish an accurate detailed statement of the receipts and expenditures of the public money, or evidences of indebtedness, showing the several amounts paid, to whom paid, and on what account.

(d) The biennial report shall be made to the Governor on or before October 10 next preceding the regular meeting of the General Assembly for each biennial session.

History. Rev. Stat., ch. 18, § 8; Acts 1853, § 1, p. 127; 1877, No. 29, § 1, p. 25; 1881, No. 97, § 1, p. 193; C. & M. Dig., §§ 4452-4454; Pope's Dig., §§ 5487-5489; A.S.A. 1947, §§ 12-302, 12-511 — 12-513.

Cross References. Holford bonds not to be paid, Ark. Const. Amend. 1.

Monthly report of fees to Treasurer of State, § 21-7-203.

Quarterly financial reports, time for making, § 21-7-302.

Quarterly reports of Auditor of State, § 21-7-302.

Statement of fees received to be included in regular report to Governor, § 21-7-203.

Time for biennial report to Governor, § 25-16-203.

25-16-514. Quarterly report of Treasurer of State's accounts.

It shall be the duty of the Auditor of State to make quarterly reports to the Governor of the amount of moneys in the hands of the Treasurer of State belonging to the state or any county.

History. Rev. Stat., ch. 18, § 41; C. & M. Dig., § 4455; Pope's Dig., § 5490; A.S.A. 1947, § 12-514.

25-16-515. Accounting at expiration of term of appropriation.

(a) It shall be the duty of the Auditor of State at the expiration of the time for which each and every appropriation is made to report to the Treasurer of State the total amount of the warrants drawn on the

appropriations during the term. If any balance remains unexpended of any appropriation for which no warrant has been drawn, the Treasurer of State shall balance the accounts and cover the balance into the State Treasury.

(b) In no case shall the Auditor of State carry forward from one (1) term to another an unexpended balance of any appropriation after the time for which it was made has expired.

History. Acts 1883, No. 17, §§ 1, 3, p. Dig., §§ 5507, 5509; A.S.A. 1947, §§ 12-15; C. & M. Dig., §§ 4471, 4473; Pope's 528, 12-529.

25-16-516. Warrants — Form and record.

(a) In all cases of accounts audited and allowed against the state and in all cases of grants, salaries, and expenses allowed by law, the Auditor of State shall draw warrants upon the State Treasury for the amount due, in the following form:

“No.

STATE OF ARKANSAS.
Auditor's Office,

..... Little Rock,, 20....

I certify that the sum of dollars and cents is due by the State of Arkansas to, and do hereby direct that the Treasurer of said State pay to the said, or bearer, the sum of dollars and cents, out of

.....,
Auditor.

\$.....”

(b) The Auditor of State shall number progressively all the warrants issued by him or her during each year, commencing on January 1 and ending on December 31.

(c) The Auditor of State shall enter in a book to be kept for that purpose each warrant drawn by him or her on the State Treasury for the payment of money in the order in which the warrant shall be issued. The entry shall be in such manner as to show the number and date of each warrant, the name of the person in whose favor drawn, and for what it was drawn.

History. Rev. Stat., ch. 18, §§ 16, 20, 21; C. & M. Dig., §§ 4466-4468; Pope's Dig., §§ 5502-5504; A.S.A. 1947, §§ 12-521 — 12-523.

Cross References. Fees in actions by state, warrant for payment, § 16-106-108.

CASE NOTES

Mandamus.

Mandamus will lie to compel an auditor to draw his warrant for an officer's salary. *Cotham v. Coffman*, 111 Ark. 108, 163 S.W. 1183 (1914).

Cited: *Hays v. McDaniel*, 130 Ark. 52, 196 S.W. 934 (1917); *Democrat Printing & Lithographing Co. v. Parker*, 192 Ark. 989, 96 S.W.2d 16 (1936).

25-16-517. Warrants — Restrictions on issuance.

(a) No warrant shall be drawn by the Auditor of State unless the money has been previously appropriated by law, nor shall the amount drawn for under any one (1) head ever exceed the amount appropriated by law for that purpose.

(b) The Auditor of State is denied authority to draw any warrant on the Treasurer of State to be paid out of the general revenue of the state for the support of common schools.

(c) If the Auditor of State shall knowingly issue any warrant upon the State Treasury not authorized by law, he or she shall be deemed guilty of a misdemeanor in office. Upon conviction thereof, he or she shall forfeit, for the use of the state, any sum not less than fifty dollars (\$50.00).

History. Rev. Stat., ch. 18, §§ 17, 32; Acts 1883, No. 114, § 208, p. 199; C. & M. Dig., §§ 2827, 4469, 10179; Pope's Dig., §§ 3545, 5505, 13962; A.S.A. 1947, §§ 12-524 — 12-526.

Publisher's Notes. Rev. Stat., ch. 18, § 17, is also codified as § 25-16-607.

Cross References. Claims on institutions not according to law, issuance of warrant prohibited, § 25-17-102.

No money to be paid from State Treasury without appropriation, Ark. Const., Art. 16, § 12.

CASE NOTES**ANALYSIS**

Appropriation.
Mandamus.

Appropriation.

Appropriation denotes the setting apart or assigning to a particular use of a certain sum of money for a specified purpose in such a manner that the public officials are authorized to draw or use the sum so set apart and no more for the purpose

specified and for no other. *Dickinson v. Clibourn*, 125 Ark. 101, 187 S.W. 909 (1916).

Mandamus.

Mandamus did not lie to compel issuance of warrant where no appropriation had been made by the General Assembly and no allowance of claim had been made by the claims commission. *Winn v. Humphrey*, 195 Ark. 131, 111 S.W.2d 468 (1937).

25-16-518. Warrants — Prohibitions against receipt in payment of debt to state, use as offset, and bearing of interest.

No warrant issued by the Auditor of State shall be received in payment of debts due the state, nor shall the warrants, under any circumstances, bear interest or be received or allowed as an offset in any suit commenced for the recovery of money due the state, but the warrant shall only be received and paid by the Treasurer of State.

History. Acts 1845, § 20, p. 88; C. & M. Dig., § 4470; Pope's Dig., § 5506; A.S.A. 1947, § 12-527.

Cross References. Interest-bearing warrants or scrip prohibited, Ark. Const., Art. 16, § 1.

25-16-519. Warrants — Issuance of duplicates.

(a)(1) Whenever Auditor of State's warrants of the State of Arkansas issued to any person are lost or destroyed, the owner or person entitled to receive the contents of the lost or destroyed warrants shall be entitled to have them duplicated by the Auditor of State upon satisfactory proof or evidence to the Auditor of State that:

(A) The warrants alleged to have been so lost or destroyed were actually issued to the person as alleged in the application to him or her;

(B) The warrants have not been paid by the Treasurer of State;

(C) The person making the application is legally authorized or entitled to receive the contents of the warrants; and

(D) The warrants have been lost or destroyed.

(2) The evidence must show how and in what manner the loss or destruction occurred, the date and number of the lost or destroyed warrants, and whether they bore interest or not.

(b) The evidence required by subsection (a) of this section shall be duly sworn to and subscribed by the person entitled to receive the contents of the warrants, or some person for him or her. This person or the person acting for him or her shall also execute and file with the Auditor of State his or her bond to the State of Arkansas with good and sufficient security to be approved by the Auditor of State in a sum not less than double the amount of the warrants claimed to be lost. The bond shall be conditioned that he or she will save and keep harmless the State of Arkansas against any payment of the warrants which the state may thereafter be compelled to make to a bona fide holder of the warrants.

(c) Upon compliance with the requirements of subsections (a) and (b) of this section, it shall be the duty of the Auditor of State to issue and deliver to the applicant, or his or her agent or attorney, a duplicate for the warrant so adjudged to have been lost or destroyed. The duplicate warrant and endorsement shall entitle the holder to receive from the Treasurer of State the amount specified in the duplicate warrant, in like manner as upon an original warrant.

(d) The Auditor of State shall review the bonding procedures for the issuance of duplicate warrants and shall issue rules and regulations on the adequate bonding of all payees on duplicate warrants to preserve and protect the expenditure of state funds.

(e) The bonding requirements shall not apply to a person who is acting in his or her capacity as an official officer or authorized representative of state or local government, including school districts, and when that person is covered under the provisions of the Self-Insured Fidelity Bond Program under § 21-2-701 et seq.

History. Acts 1868, No. 35, §§ 1, 2, p. 113; 1875 (Adj. Sess.), No. 34, § 1, p. 37; C. & M. Dig., §§ 4474-4476; Pope's Dig., §§ 5510-5512; Acts 1953, No. 55, § 1; 1983, No. 697, § 2; A.S.A. 1947, §§ 12-530 — 12-532; Acts 1989, No. 416, § 1.

SUBCHAPTER 6 — TREASURER OF STATE

SECTION.

- 25-16-601. Violation of law by Treasurer of State.
- 25-16-602. Seal.
- 25-16-603. Deputies.
- 25-16-604. Duties generally.
- 25-16-605. Access to other offices.
- 25-16-606. Power to administer oaths.
- 25-16-607. Payment on Auditor of State's warrants.
- 25-16-608. Issuance of certificates or scrip on Auditor of State's warrants.
- 25-16-609. Claims for reimbursement on uncollectible state warrants or checks.

SECTION.

- 25-16-610. Biennial report — Certain bonds not reported.
- 25-16-611. Quarterly report on notes and on moneys from sale of state lands.
- 25-16-612. Balancing books at end of term of appropriation.
- 25-16-613. Letter book.
- 25-16-614. Examination of office.
- 25-16-615. Examination of records by joint legislative committee.

Preambles. Acts 1853, p. 127 contained a preamble which read: "Whereas, it is proper that the Governor should have in his possession the reports of the various state officers, showing the condition of the affairs of the state, to enable him to prepare his message to the General Assembly, with convenience, and based on official information; therefore...."

Effective Dates. Acts 1844, p. 29, § 13: effective on passage.

Acts 1853, p. 127, § 3: effective on passage.

Acts 1866, No. 4, § 3: effective on passage.

Acts 1881, No. 97, § 2: became law without Governor's signature, Apr. 9, 1881.

Acts 1883, No. 17, § 4: effective on passage.

Acts 1883, No. 107, § 3: effective on passage.

Acts 1885, No. 131, § 7: effective on passage.

Acts 1891, No. 46, § 4: effective on passage.

Acts 1983, No. 697, § 3[4]: Mar. 23, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that procedures are needed whereby the State Treasurer may obtain reimbursement on any uncollectible State warrants or checks received by the Office in a normal course of business, and that the methods set forth in this Act will provide a procedure whereby the State Treasurer may obtain such reimbursement in a businesslike manner; and that the immediate passage of this Act is necessary to enable the State Treasurer to perform the duties of said Office in a businesslike manner. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

RESEARCH REFERENCES

ALR. Validity, construction, and effect of state statutes restricting political activities of public officers or employees. 51 ALR 4th 702.

Am. Jur. 72 Am. Jur. 2d, States, § 64.
C.J.S. 81A C.J.S., States, § 135.

25-16-601. Violation of law by Treasurer of State.

If the Treasurer of State shall willfully neglect or refuse to perform any duty enjoined by law, or shall be guilty of any oppression or extortion in the performance of any legal duty, or shall receive any fee or reward for the performance of any legal duty not allowed by law, or shall by color of his or her office knowingly do any act not authorized by law, or shall use any of the moneys belonging to the state, or shall perform any other duty of his or her office in any other manner than is required by law, then he or she shall be deemed guilty of a misdemeanor in office and on conviction shall forfeit for the use of the state any sum not less than one hundred dollars (\$100).

History. Rev. Stat., ch. 18, § 34; C. & M. Dig., § 2812; Pope's Dig., § 3530; A.S.A. 1947, § 12-628. **Publisher's Notes.** Rev. Stat., ch. 18, § 34, is also codified as § 25-16-501.

25-16-602. Seal.

The Treasurer of State shall keep a seal of office which shall be used to authenticate all writings, papers, and documents required by law to be certified from his or her office.

History. Rev. Stat., ch. 18, § 6; C. & M. Dig., § 4483; Pope's Dig., § 5519; A.S.A. 1947, § 12-604. **Publisher's Notes.** Rev. Stat., ch. 18, § 6, is also codified as § 25-16-503.

25-16-603. Deputies.

(a) The Treasurer of State is authorized to appoint two (2) deputies. The appointments shall be made in writing.

(b) Each deputy so appointed shall take the oath prescribed by law. The oath shall be endorsed on the letter of appointment, and the letter of appointment shall be filed in the office of the Secretary of State.

(c) The Treasurer of State shall be responsible on his or her official bond for all the acts done and performed by his or her deputies in the performance of their official duties.

(d) Every deputy appointed under the provisions of this section shall possess all the powers of his or her principal and may perform any of the duties required by law to be performed by his or her principal.

History. Acts 1866, No. 4, §§ 1, 2, p. 20; C. & M. Dig., §§ 4484, 4486; Pope's Dig., §§ 5520, 5522; A.S.A. 1947, §§ 12-605, 12-606; Acts 1991, No. 531, § 1. **Publisher's Notes.** Acts 1866, No. 4, §§ 1 and 2, are also codified as § 25-16-504.

CASE NOTES

Cited: State v. Newton, 33 Ark. 276 (1878).

25-16-604. Duties generally.

It shall be the duty of the Treasurer of State:

- (1) To receive and keep all the moneys of the state not expressly required by law to be kept by some other person;
- (2) To disburse the public moneys upon warrants drawn upon the State Treasury according to law, and not otherwise;
- (3) To keep a just, true, and comprehensive account of all moneys received and disbursed by him or her in books to be kept for that purpose, in which he or she shall state from whom moneys have been received and on what account and to whom and on what account disbursed;
- (4) To keep a just and true account of each head of appropriation made by law and the disbursements under them;
- (5) To render his or her accounts to the Auditor of State for settlement quarterly;
- (6) To report to the Governor, on or before October 10 next preceding the regular meeting of the General Assembly for each biennial session, a statement of the condition of the State Treasury and its operations for the two (2) preceding years. The biennial report shall be made to the Governor; and
- (7) To perform all other duties which may be required of him or her by law.

History. Rev. Stat., ch. 18, § 22; Acts 1853, § 1, p. 127; C. & M. Dig., §§ 4387, 4490; Pope's Dig., §§ 5399, 5526; A.S.A. 1947, §§ 12-302, 12-609.

Cross References. No money paid from treasury unless appropriated, Ark. Const., Art. 16, § 12.

Quarterly reports of Treasurer of State, § 21-7-301.

Receipts for funds paid into State Treasury, § 19-2-102.

State institutions, Treasurer of State not entitled to membership on boards of management, § 25-17-203.

Statement of fees received to be included in regular report to Governor, § 21-7-203.

Treasurer of State liable for fees received from other officers, § 21-7-202.

CASE NOTES

Receipt of Moneys.

Constitution does not require cash funds of state institutions and agencies derived from student fees, sale of farm produce, and dormitory charges, to be

turned over to the state treasury. *Gipson v. Ingram*, 215 Ark. 812, 223 S.W.2d 595 (1949).

Cited: *State v. Newton*, 33 Ark. 276 (1878).

25-16-605. Access to other offices.

The Treasurer of State shall have free access to all the other offices of the state for the inspection, concerning his or her duties, of all books, accounts, and papers which they respectively contain.

History. Rev. Stat., ch. 18, § 30; C. & M. Dig., § 4488; Pope's Dig., § 5524; A.S.A. 1947, § 12-612.

Publisher's Notes. Rev. Stat., ch. 18, § 30, is also codified as § 25-16-506.

25-16-606. Power to administer oaths.

The Treasurer of State shall have power to administer oaths required or allowed by law in matters touching the duties of his or her office.

History. Rev. Stat., ch. 18, § 29; C. & M. Dig., § 4487; Pope's Dig., § 5523; A.S.A. 1947, § 12-608.

Publisher's Notes. Rev. Stat., ch. 18, § 29, is also codified as § 25-16-507.

25-16-607. Payment on Auditor of State's warrants.

(a) The Treasurer of State is prohibited from paying any money out of the State Treasury on any account whatever except upon the lawful warrants of the Auditor of State.

(b) No warrant shall be paid by the Treasurer of State unless the money has been previously appropriated by law, nor shall the amount paid under any one (1) head ever exceed the amount appropriated by law for that purpose.

(c) Whenever there shall not be in the State Treasury a sufficient amount of money to pay all the warrants of the Auditor of State outstanding at the time, the Treasurer of State shall redeem the warrants in the order of their dates and numbers as issued. It shall be lawful for the Treasurer of State to pay any Auditor of State's warrant when the amount of money in the State Treasury is sufficient to redeem the warrant, as well as all other warrants of earlier date and number preceding it.

(d) The Treasurer of State, when he or she pays any warrant drawn by the Auditor of State, shall write on the face of the warrant "redeemed", to which he or she shall sign his or her name and the date thereof.

(e) If the Treasurer of State shall willfully and unlawfully refuse to pay any warrant drawn upon the State Treasury, having funds on hand for that purpose, then he or she shall be deemed guilty of a misdemeanor in office and upon conviction shall be fined for the use of the state in any sum not less than one hundred dollars (\$100).

History. Rev. Stat., ch. 18, §§ 17, 24, 33; Acts 1883, No. 107, § 2, p. 191; 1885, No. 131, § 4, p. 210; C. & M. Dig., §§ 2828, 4469, 4495, 4496; Pope's Dig., §§ 3546, 5505, 5531, 5532; A.S.A. 1947, §§ 12-613 — 12-617.

Publisher's Notes. Rev. Stat., ch. 18, § 17, is also codified as § 25-16-517.

Cross References. No money to be paid from treasury without appropriation, Ark. Const., Art. 16, § 12.

CASE NOTES

Cited: Dickinson v. Clibourn, 125 Ark. 101, 187 S.W. 909 (1916).

25-16-608. Issuance of certificates or scrip on Auditor of State's warrants.

It shall be unlawful for the Treasurer of State to issue new certificates or scrip upon warrants of the Auditor of State.

History. Acts 1885, No. 131, § 2, p. 210; C. & M. Dig., § 4498; Pope's Dig., § 5534; A.S.A. 1947, § 12-618.

25-16-609. Claims for reimbursement on uncollectible state warrants or checks.

(a) The Treasurer of State shall file a claim for reimbursement with the Arkansas State Claims Commission on any uncollectible state warrants or checks received by the office in a normal course of business.

(b) Warrants or checks shall be considered uncollectible if all available legal action is taken without any satisfactory results for six (6) months after items become uncollectible and if the Attorney General is given notice of the nature of the claim at the time of the filing for reimbursement with the commission.

(c)(1) The reimbursement claim shall be payable from the Miscellaneous Revolving Fund Account of the commission for either controversial or noncontroversial claims on order of the commission.

(2) If the award is greater than the limitation imposed by law upon the commission for the payment of a controversial or noncontroversial claim, then the reimbursement claim shall be referred to the General Assembly for an appropriation as in the case of other claims referred by the commission. This referral shall be handled by the commission.

History. Acts 1983, No. 697, § 1; A.S.A. 1947, § 12-619.1.

25-16-610. Biennial report — Certain bonds not reported.

The Treasurer of State is not required to report the railroad aid and levee bonds and what are known as the Holford bonds as part of the indebtedness of the State of Arkansas in his or her biennial report.

History. Acts 1881, No. 97, § 1, p. 193; C. & M. Dig., § 4453; Pope's Dig., § 5488; A.S.A. 1947, § 12-512. **Cross References.** Holford bonds not to be paid, Ark. Const. Amend. 1.

25-16-611. Quarterly report on notes and on moneys from sale of state lands.

The Treasurer of State shall report quarterly to the Governor the amount of notes on hand and by whom drawn and the amount of moneys received and on hand on account of the sale of state lands.

History. Acts 1844, § 5, p. 29; C. & M. Dig., § 4492; Pope's Dig., § 5528; A.S.A. 1947, § 12-611.

Publisher's Notes. This section may

be obsolete. The rest of the 1844 act provided for sales on credit of internal improvement lands by land agents. The notes referred to are notes received for

such lands. There are currently no provisions for such sales and the Commissioner of State Lands has charge of all sales of state lands.

25-16-612. Balancing books at end of term of appropriation.

It shall be the duty of the Treasurer of State, on the receipt of the report of the Auditor of State provided for in § 25-16-515, to bring down a balance to the credit of each appropriation sufficient to cover the warrants issued and not paid during the term for which the appropriation was made, and, after the credits are given and books balanced, the balance shall then be covered into the State Treasury.

History. Acts 1883, No. 17, § 2, p. 15; C. & M. Dig., § 4472; Pope's Dig., § 5508; A.S.A. 1947, § 12-619.

25-16-613. Letter book.

The Treasurer of State shall keep a letter book, in which he or she shall copy all official letters which may be written by him or her.

History. Rev. Stat., ch. 18, § 31; C. & M. Dig., § 4489; Pope's Dig., § 5525; A.S.A. 1947, § 12-610.

Publisher's Notes. Rev. Stat., ch. 18, § 31, is also codified as § 25-16-511.

25-16-614. Examination of office.

(a) The Governor shall be authorized and required to appoint and commission expert accountants to examine and report to the Governor the state of the Treasurer of State's office. The Governor may order an examination at his or her discretion provided he or she orders at least one (1) each year.

(b)(1) At least one (1) appointment of an accountant shall be made each year, and the number of accountants shall not exceed two (2).

(2) The duties of accountants shall be to examine carefully and fully the books of the Treasurer of State, to count the cash belonging to the state on hand, and to prepare a complete printed statement of their labor. Accountants shall attach to this statement the following oath subscribed and sworn to by them:

"I do solemnly swear that I have made a complete examination of the books belonging to the office of the Treasurer of State for one (1) year last past, and counted the cash on hand, and the foregoing statement is true and correct, and I further swear that I did not directly nor indirectly inform anyone of my appointment nor of my intention to examine said books until I entered actively upon my duty."

(3)(A) When the Governor appoints and commissions the accountants, he or she shall swear them not to divulge their appointments until they shall have entered upon the active duties of their office.

(B) If the expert or accountant shall divulge, directly or indirectly, the fact that he or she has been appointed or commissioned to that office, or the time when the Governor has ordered the examination,

he or she shall be deemed guilty of perjury and punished as in other cases.

(4) The Governor is authorized to pay the accountants out of the contingent fund a sum of money not exceeding two hundred dollars (\$200) for each examination made.

(c) Upon the presentation of the accountant duly commissioned, the Treasurer of State shall give the accountant free access to his or her books and permit him or her to count the cash on hand.

(d) On the refusal of the Treasurer of State to comply with the provisions of this section, his or her office shall be declared vacant and the offense deemed a felony, and on conviction thereof he or she shall be sentenced to the Department of Correction for a term not exceeding five (5) years.

History. Acts 1891, No. 46, §§ 1-4, p. Dig., §§ 5570-5573; A.S.A. 1947, §§ 12-76; C. & M. Dig., §§ 4513-4516; Pope's 620 — 12-623.

25-16-615. Examination of records by joint legislative committee.

(a) Immediately after the commencement of each session of the General Assembly, it shall be the duty of the Treasurer of State to submit all accounts, books, vouchers, and other official documents in his or her office to a joint committee of the General Assembly for examination and settlement.

(b) It shall be the duty of the committee to examine the books, accounts, vouchers, and other official documents of the Treasurer of State and make a report of the results of the examination to both houses of the General Assembly.

(c)(1) If each house shall approve the report of the committee, an order shall be made directing the committee to cause the proper entries to be made in the books of the Treasurer of State, showing the results of the settlement.

(2) If the committee shall make an unfavorable report upon finding that the Treasurer of State has not performed the duties required of him or her by law and if the report shall be approved by both houses of the General Assembly, an order shall be made directing the Governor to cause suit to be brought against the delinquent on his or her official bond.

History. Rev. Stat., ch. 18, §§ 36-39; C. & M. Dig., §§ 4517-4520; Pope's Dig., §§ 5574-5577; A.S.A. 1947, §§ 12-624 — 12-627.

Publisher's Notes. Rev. Stat., ch. 18, §§ 36-39, are also codified as § 25-16-512.

SUBCHAPTER 7 — ATTORNEY GENERAL

SECTION.

25-16-701. Private practice of law prohibited.

SECTION.

25-16-702. Representation of state agencies and officers generally

SECTION.

- Employment of outside counsel.
- 25-16-703. Representation of state interests in federal courts.
- 25-16-704. Representation of state interests in Supreme Court — Writs of quo warranto.
- 25-16-705. Subpoena power — Attendance of witnesses.
- 25-16-706. Opinions.
- 25-16-707. Amounts due state to be certified to Attorney General.

SECTION.

- 25-16-708. Appointment of special counsel to collect moneys due state.
- 25-16-709. Suits against officers indebted to state.
- 25-16-710. [Repealed.]
- 25-16-711. Disputes between Attorney General and a constitutional officer.
- 25-16-712. Funding restriction.

Cross References. Attorney General not to hold other office, Ark. Const., Art. 6, § 22.

State institutions, Attorney General not entitled to membership on boards of management, § 25-17-203.

Preambles. Acts 1923, No. 157 contained a preamble which read: "Whereas, more than two thousand individuals and corporations in Arkansas are annually delinquent in the payment of privilege, franchise, special license and other taxes; and "Whereas, the law requires the Attorney General, upon such failure, to institute legal proceedings, if necessary, for the collection of such taxes; and

"Whereas, in a great number of instances the amounts due the state are exceedingly small and the collection of same by the Attorney General direct would result in heavy traveling expense to be paid by the state, and in preventing the Attorney General from remaining in his office and supervising and directing the work thereof properly; and

"Whereas, the amount of work in the office of the Attorney General is so heavy that it requires all the time of the entire office force, thus making it impossible to properly attend, in person, to the collection of the taxes aforesaid..."

Effective Dates. Acts 1857, p. 117, § 8: effective on passage.

Acts 1883, No. 45, § 3: effective on passage.

Acts 1883, No. 85, § 3: effective on passage.

Acts 1893, No. 145, § 6: effective on passage.

Acts 1911, No. 131, § 9: approved Mar. 24, 1911. Emergency declared.

Acts 1923, No. 157, § 7: Emergency declared.

Acts 1957, No. 91, § 6: Feb. 26, 1957. Emergency clause provided: "It has been found and declared by the General Assembly of Arkansas that the Attorney General in order to more adequately represent the State of Arkansas in all matters in which the state's interests are concerned should have the power to subpoena witnesses for the purpose of investigation. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall take effect and be in force from the date of its approval."

Acts 1975, No. 246, § 3: Feb. 24, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that it is essential for the best interest to the people of the State of Arkansas where is a difference of opinion between a Constitutional Officer and the Attorney General as to a conflict of interest between their Offices that the Constitutional Officer could engage and employ special counsel to represent him or her in his official capacity. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (1st Ex. Sess.), No. 46, § 20: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an

extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 557, § 25: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a

two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

RESEARCH REFERENCES

ALR. Prosecutor's power to grant prosecution witness immunity from prosecution. 4 ALR 4th 1221.

Validity, construction, and effect of state statutes restricting political activities of public officers or employees. 51 ALR 4th 702.

Investigative authority of administrative agencies in state regulation of securities. 58 ALR 5th 293.

Am. Jur. 7 Am. Jur. 2d, Atty. Gen., § 1 et seq.

C.J.S. 7A C.J.S., Atty. Gen., § 1 et seq.

25-16-701. Private practice of law prohibited.

During his or her term of office, the Attorney General shall not engage in the private practice of law, which shall include, but not be limited to, acting as office counsel, participating in litigation, and accepting retainers.

History. Acts 1977, No. 251, § 1; A.S.A. 1947, § 12-701.1.

25-16-702. Representation of state agencies and officers generally — Employment of outside counsel.

(a) The Attorney General shall be the attorney for all state officials, departments, institutions, and agencies. Whenever any officer or department, institution, or agency of the state needs the services of an attorney, the matter shall be certified to the Attorney General for attention.

(b)(1) All office work and advice for state officials, departments, institutions, and agencies shall be given by the Attorney General and his or her assistants, and no special counsel shall be employed or additional expense paid for those services.

(2) If, in the opinion of the Attorney General, it shall at any time be necessary to employ special counsel to prosecute any suit brought on behalf of the state or to defend a suit brought against any official, board,

commission, or agency of the state, the Attorney General, with the approval of the Governor, may employ special counsel. The compensation for the special counsel shall be fixed by the court where the litigation is pending, with the written approval of the Governor and the Attorney General. The Attorney General shall not enter into any contract for the employment of outside legal counsel without first seeking prior review by the Legislative Council.

(c) If any official, department, institution, or agency of the state needs the service of an attorney and the Attorney General fails to render the service when requested in writing, then, upon the establishment of that fact, the Governor may appoint counsel to look after the matter or may authorize the employment of counsel by the officer, department, agency, or institution needing the services of an attorney.

(d) Any person violating the provisions of this section shall be subject to indictment and upon conviction fined in any sum not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000) and, upon proper proceedings, removed from office.

(e) The Attorney General shall have authority to initiate civil lawsuits under all state and federal environmental protection statutes.

History. Acts 1933, No. 14, §§ 1, 2, 5-7; Pope's Dig., §§ 5599, 5600, 5602-5604; A.S.A. 1947, §§ 12-701, 12-708 — 12-711; Acts 1989 (1st Ex. Sess.), No. 46, § 16; 1991, No. 609, § 2.

Publisher's Notes. Acts 1991, No. 609, § 1, provided: "It is the public policy of this state that vigorous efforts be made to protect our fragile environment. Recognizing that duties concerning protection of the environment have been assigned to several agencies of state government, it is found that to enhance efforts to protect the environment, authority for instituting civil suits to protect the environment in the courts of this state and of the United States should be placed in the office of the Attorney General."

Acts 1991, No. 609, § 3, provided: "This

Act shall not be construed as superseding or impairing any legal authority currently vested with the Arkansas Department of Pollution Control and Ecology, nor shall this Act in any way affect programs delegated by federal agencies to the Arkansas Department of Pollution Control and Ecology."

Cross References. Consumer Protection Division, § 4-88-105.

Criminal extradition, duties of Attorney General, § 16-94-204.

Duty to defend cities, towns, counties, § 21-9-304.

Suits for recovery of state property and lands, § 22-5-401.

Tax collection duties, §§ 26-26-1614, 26-26-1704, 26-26-1706.

CASE NOTES

ANALYSIS

Intervention.
Jurisdiction.

Intervention.

The Attorney General can intervene in any suit involving any agency or department if his services are "necessary and desirable." *Parker v. Murry*, 221 Ark. 554, 254 S.W.2d 468 (1953); *Newton County v. West*, 293 Ark. 461, 739 S.W.2d 141 (1987).

Attorney General was not entitled to intervene in proceeding for the purpose of defending state officer who was being defended by his own attorney in absence of showing that attorney was not efficiently representing officer. *Parker v. Murry*, 221 Ark. 554, 254 S.W.2d 468 (1953).

Jurisdiction.

The chancery court lacked subject-matter jurisdiction to issue the writ of mandamus to restrain the counsel for the

Arkansas Department of Finance and Administration from representing the State of Arkansas before the United States Supreme Court, the effect of which was to thwart the state's certiorari petition from being docketed in the Supreme Court.

Barclay v. Farm Credit Servs., 340 Ark. 65, 8 S.W.3d 517 (2000).

Cited: Rodgers v. University of Ark. for Medical Sciences, 275 Ark. 139, 628 S.W.2d 11 (1982).

25-16-703. Representation of state interests in federal courts.

(a) The Attorney General shall maintain and defend the interests of the state in matters before the United States Supreme Court and all other federal courts and shall be the legal representative of all state officers, boards, and commissions in all litigation where the interests of the state are involved.

(b) Nothing in this section shall relieve the Attorney General of discharging any and all duties required of him or her under the common law or by any of the statutes of this state, nor shall it relieve the prosecuting attorneys of any duties required of them by the statutes of this state.

History. Acts 1911, No. 131, §§ 2, 6; C. §§ 5579, 5582; A.S.A. 1947, §§ 12-706, & M. Dig., §§ 4522, 4525; Pope's Dig., 12-712.

CASE NOTES

Jurisdiction.

The chancery court lacked subject-matter jurisdiction to issue the writ of mandamus to restrain the counsel for the Arkansas Department of Finance and Administration from representing the State

of Arkansas before the United States Supreme Court, the effect of which was to thwart the state's certiorari petition from being docketed in the Supreme Court. Barclay v. Farm Credit Servs., 340 Ark. 65, 8 S.W.3d 517 (2000).

25-16-704. Representation of state interests in Supreme Court — Writs of quo warranto.

(a) The Attorney General shall attend the several sittings of the Supreme Court and shall maintain and defend the interests of the state in all matters before that tribunal.

(b) He or she shall have full power to issue writs of quo warranto in all cases where the writs should properly issue.

(c) If he or she shall fail to attend any term of the Supreme Court in which cases may be pending for or against the state, shall fail to prosecute or defend the cases, and shall fail to furnish a substitute, the court may appoint a substitute. The attorney so appointed shall receive, as a compensation for his or her services for attending any term of the court and prosecuting or defending the suits, the sum of two hundred dollars (\$200), to be paid out of the salary of the Attorney General on the certificate of the court.

History. Acts 1843, § 2, p. 117; 1857, Pope's Dig., §§ 5584, 5585; A.S.A. 1947, § 6, p. 117; C. & M. Dig., §§ 4527, 4528; §§ 12-713, 12-714.

Cross References. State of Arkansas not to be made defendant in any of its courts, Ark. Const., Art. 5, § 20.

CASE NOTES

Quo Warranto.
An injunction suit could not be transferred into an action of quo warranto or of information in the nature of quo warranto in the absence of intervention by the state through the Attorney General. *Moody v. Lowrimore*, 74 Ark. 421, 86 S.W. 400 (1905).
Cited: *Ashcraft v. State*, 141 Ark. 361, 222 S.W. 376 (1919).

25-16-705. Subpoena power — Attendance of witnesses.

(a) In all litigation in which the interests of the State of Arkansas are involved or may become involved, before any tribunal, board, or commission, the Attorney General shall have the right to subpoena any person or the books, records, or other documents being held by any person. He or she shall have the authority to administer oaths for the purpose of taking testimony of witnesses subpoenaed before him or her which he or she may deem necessary to adequately present the state's case.

(b) The subpoena provided for in subsection (a) of this section shall be substantially in the following form:

“The State of Arkansas to the Sheriff of County: You are commanded to subpoena to attend before the Attorney General at on, 20....., at o'clockM., and testify and/or produce the following books, records, or other documents, to wit:

.....
in the matter of an investigation being conducted by the Attorney General in which the interests of the State of Arkansas are involved.

WITNESS my hand this day of, 20.....

.....
Attorney General

By:

.....
Assistant Attorney General”

(c) The subpoena provided for in subsection (a) of this section shall be served in the manner provided by law and returned and a record made and kept by the Attorney General. The fees and mileage of officers serving the subpoena, and of witnesses in answer to the subpoena, shall be as provided by law.

(d)(1) The failure of any officer to serve such subpoena, and the failure of a witness to appear on the return date thereof, shall constitute a misdemeanor punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100), by imprisonment in the county jail not to exceed six (6) months, or both fine and imprisonment.

(2) In addition to paying the penalty provided in subdivision (d)(1) of this section, any witness who fails to attend before the Attorney General at the time and place designated in the subpoena, or who

refuses to testify or give evidence when he or she does attend, shall be cited on affidavit by the Attorney General to the Pulaski County Circuit Court or any other circuit court of the state where the subpoena was served and proceeded against. Such failure or refusal shall be punished by the court as if the witness had been subpoenaed to appear before the circuit court citing the person.

History. Acts 1957, No. 91, §§ 1-5;
A.S.A. 1947, §§ 12-725 — 12-729.

25-16-706. Opinions.

(a)(1) Upon request, the Attorney General without fee or reward shall give his or her opinion to the Governor and to the heads of the executive departments of this state upon any constitutional or other legal question that may concern the official action of those officers.

(2) When requested, he or she shall give his or her opinion to the prosecuting attorney of any district upon any legal question that concerns the financial interests of the state or any county and upon any question connected with the administration of the criminal laws of the state.

(3) When requested, he or she shall also give his or her opinion to either house of the General Assembly and any member thereof upon the constitutionality of any proposed bill and to all state boards and commissions upon any question connected with the discharge of the duties of those boards and commissions.

(b) The Attorney General is required to furnish to county boards of election commissioners an official opinion upon any inquiry submitted to him or her concerning the provisions of the election laws of this state.

(c) All opinions shall be written when the inquiry is in writing and request is made for a written opinion.

(d)(1) Whenever any real estate is bought for the State of Arkansas by any agency, department, board, or commission authorized to buy real estate, it shall be the duty of the seller of the property at the seller's own expense to provide a commitment to issue a title insurance policy acceptable to the agency, department, board, or commission.

(2) Upon request, the Attorney General shall provide to the agency, department, board, or commission buying the property advice and counsel regarding the purchase of the property.

(e) Nothing in subsections (a)-(d) of this section shall relieve the Attorney General of discharging any and all duties required of him or her under the common law or by any of the statutes of this state or relieve the prosecuting attorneys of any duties required of them by the statutes of this state.

History. Acts 1843, § 2, p. 117; 1857, §§ 12-702 — 12-704, 12-706; Acts 2001, § 3, p. 117; 1893, No. 145, § 5, p. 251; 1911, No. 131, §§ 1, 3, 6; C. & M. Dig., §§ 4521, 4523, 4525, 4526; Pope's Dig., §§ 5578, 5580, 5582, 5583; A.S.A. 1947, No. 534, § 1.

Amendments. The 2001 amendment redesignated the former (d) as (d)(1); in (d)(1), inserted "agency, department," sub-

stituted "the seller's own" for "his own," substituted "provide a commitment ... or commission" for "have prepared by some abstract company or abstractor acceptable

to the Attorney General, an abstract of the title to the property," and deleted the last sentence; and inserted (d)(2).

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Access to Public Records under the Arkansas Freedom of Information Act, 37 Ark. L. Rev. 741.

CASE NOTES

Settlement of Claims.

Attorney General was authorized to advise settlement of state's claim against insolvent bank and letter of Attorney General authorizing settlement relieved the

Treasurer and his surety from liability for having made the settlement. *State ex rel. Smith v. Leonard*, 192 Ark. 834, 95 S.W.2d 86 (1936).

25-16-707. Amounts due state to be certified to Attorney General.

(a) Within ten (10) days after any amount of money is due and payable to the state, the official, department, institution, or other agency through which the amount is payable shall certify that fact to the Attorney General for his or her attention.

(b) Any person violating the provisions of this section shall be subject to indictment and upon conviction fined in any sum not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000) and, upon proper proceedings, removed from office.

History. Acts 1933, No. 14, §§ 3, 7; Pope's Dig., § 5601; A.S.A. 1947, §§ 12-711, 12-718.

25-16-708. Appointment of special counsel to collect moneys due state.

(a) When there shall be past due and unpaid any special license fee, franchise tax, privilege tax, or other moneys due the state by individuals, officers, companies, firms, or corporations, and when in his or her judgment it would be for the best interest of the state to do so, the Attorney General shall have the authority to appoint special counsel to take any steps which shall be necessary for the collection of all those sums which are due and unpaid.

(b) In all cases in which the Attorney General may appoint special counsel under the provisions of this section, the special counsel shall receive a reasonable compensation for his or her services, dependent on recovery, to be fixed by the Attorney General where collection is made without suit, and by the court or judge trying the cause where suits are instituted. The compensation shall in no case be more than twenty-five percent (25%) of the amount recovered.

(c) The venue of all suits contemplated by the provisions of this section shall be in the circuit court of any county in Arkansas where legal service of summons can be made.

(d) In cases in which the Attorney General deems it for the best interest of the state to do so, he or she is given authority to make any compromises of delinquent taxes or moneys, as herein described, as in his or her judgment shall secure for the state the most advantageous settlement.

(e) All moneys collected under the provisions of this section, less the compensation of special counsel fixed under authority of subsection (b) of this section, shall be paid over promptly to the Treasurer of State, who shall issue his or her receipt therefor to the Attorney General.

(f) This section shall not be so construed as to repeal § 22-5-401.

History. Acts 1923, No. 157, §§ 1-6; Pope's Dig., §§ 5593-5598; A.S.A. 1947, §§ 12-719 — 12-724.

CASE NOTES

ANALYSIS

Applicability.

Compensation of counsel.

Settlement.

Applicability.

This section deals exclusively with special license fees, franchise taxes, privilege taxes or other moneys due the state and did not affect former provisions on tax evasion. *Norphlet Sch. Dist. No. 50 v. El Dorado Special Sch. Dist. No. 15*, 188 Ark. 875, 69 S.W.2d 400 (1934), appeal dismissed, 293 U.S. 633, 55 S. Ct. 65, 79 L. Ed. 718 (1934).

Compensation of Counsel.

There is no requirement that compensation of special counsel be assessed against the delinquent taxpayer in addi-

tion to the tax due, but the court may fix the compensation of the special counsel to be paid out of the amount recovered upon collection of such amount. *Saint Louis S.W. Ry. v. Yates*, 23 F.2d 283 (8th Cir. 1927).

Settlement.

Attorney General was authorized to advise settlement of state's claim against insolvent bank and letter of Attorney General authorizing the settlement relieved the Treasurer and his surety from liability for having made the settlement. *State ex rel. Smith v. Leonard*, 192 Ark. 834, 95 S.W.2d 86 (1936).

Cited: *Rodgers v. University of Ark. for Medical Sciences*, 275 Ark. 139, 628 S.W.2d 11 (1982).

25-16-709. Suits against officers indebted to state.

(a) The Attorney General is authorized and empowered, and it is made his or her duty, to institute and prosecute all suits in behalf of the state against all officers of the state who are indebted to the state by reason of any moneys collected or received and not accounted for according to law.

(b) Suits against these officers may be brought in any county of this state, at the option of the Attorney General, except in cases wherein the prosecuting attorneys of the different judicial districts are expressly authorized by law to bring suit.

(c) Whenever it shall become necessary to institute legal proceedings on the part of the state against defaulting or delinquent state officers, the Governor shall have the power to employ such competent attorneys at law as he or she may deem proper to assist the Attorney General in the proceedings and to pay a reasonable fee for the services rendered by them.

(d) Whenever under the provisions of this section the Attorney General shall fail to bring suit against any officer in default or to investigate the books and accounts of any officer when there are reasonable grounds for believing that he or she is a defaulter, the Governor may employ some competent attorney to prosecute the action. The attorney shall be allowed a reasonable fee.

History. Acts 1883, No. 45, §§ 1, 2, p. 68; 1883, No. 85, § 1, p. 154; C. & M. Dig., §§ 4529-4531; Pope's Dig., §§ 5586-5588; A.S.A. 1947, §§ 12-715 — 12-717.

25-16-710. [Repealed.]

Publisher's Notes. This section, concerning biennial report by the Attorney General and reports from prosecuting attorneys, was repealed by Acts 1993, No. 1306, § 11. The section was derived from Acts 1911, No. 131, §§ 4, 6; C. & M. Dig., §§ 4524, 4525; Pope's Dig., §§ 5581, 5582; A.S.A. 1947, §§ 12-705, 12-706. For present law, see § 16-21-145 et seq.

25-16-711. Disputes between Attorney General and a constitutional officer.

In the event that the Attorney General and a constitutional officer disagree on the interpretation of any constitutional provision, act, rule, or regulation which affects the duties of that constitutional officer, the constitutional officer is authorized to employ special counsel to resolve the disagreement by litigation. This special counsel shall receive a reasonable compensation for his or her services.

History. Acts 1975, No. 246, § 1; A.S.A. 1947, § 12-126.

25-16-712. Funding restriction.

The Attorney General shall not enter into any contract for the employment of outside legal counsel without first seeking prior review by the Legislative Council.

History. Acts 1993, No. 557, § 19.

SUBCHAPTER 8 — MEMBERS OF BOARDS AND COMMISSIONS

SECTION.

25-16-801. Appointments from congressional districts.

25-16-802. [Repealed.]

25-16-803. Terms not to expire between

SECTION.

biennial general election and Governor's swearing in.

25-16-804. Removal and replacement.

SECTION.

25-16-805. Special board members.

Effective Dates. Acts 1967, No. 235, § 4: June 30, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that most of the affairs of this State are conducted by boards and commissions; that the activities of such boards and commissions vitally affect the public peace, health, safety and welfare; that the appointment of capable and qualified members of such boards and commissions is of vital importance for the proper discharge of duties imposed on such boards and commissions; that many appointments are now being made of persons who are not qualified for such positions; that confusion exists in the method of appointments of members of boards and commissions from congressional districts, and clarification of laws governing such appointments is immediately necessary; and, that only by the immediate passage of this Act may the same be corrected. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace and safety shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 465, Art. 13, § 10: approved Apr. 17, 1969. Emergency clause provided: "It is hereby found and declared by the General Assembly of the State of Arkansas that the present election laws are ancient and outdated in part and have caused and are causing much confusion and controversy, that there are particular problem areas in the present law which need immediate legislation in order to resolve same, that elections are and will continue to be held and conducted in this atmosphere of confusion and controversy until these problem areas are resolved and this Act being necessary for the immediate preservation of the public peace, health, and safety, an emergency is hereby declared to exist and this Act shall be in force and effect from and after its passage."

Acts 1975 (Extended Sess., 1976), No. 1035, § 3: Jan. 27, 1976. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly, meeting in Extended Session, that

the standardization of mileage reimbursement for members of the State's Boards and Commissions will alleviate many discrepancies and inequities in existing laws and will allow such members to receive travel reimbursement commensurate with that paid to State employees. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 862, § 3: Apr. 13, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1035 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after passage and approval."

Acts 1993, No. 1251, § 8: Apr. 20, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Supreme Court has ruled in a recent decision that there is no statutory procedure in place for the appointment of special Commissioners to decide matters which come before the State Highway Commission when Commissioners are disqualified; that it is unclear whether there is authority for the appointment of special members to other state commissions, boards, councils, committees, or similar bodies when members are disqualified or are otherwise unable or unwilling to participate in matters before the entities; that it is in the best interests of all persons concerned that specific authority be provided for the appointment of special members to hear and participate in the determination of matters before a state commission, board, council, committee, or similar body when the regular members are disqualified or are otherwise

unable or unwilling to participate in matters before the entity; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends var-

ious sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

ALR. Validity, construction, and effect of state statutes restricting political activ-

ities of public officers or employees. 51 ALR 4th 702.

25-16-801. Appointments from congressional districts.

(a)(1) Whenever any laws of this state shall provide for the appointment of members of boards and commissions from each congressional district, they shall be deemed to mean the congressional districts of the state existing at the time of the appointment, and not the congressional districts existing at the time of the passage of those laws.

(2) Whenever the total membership of any board or commission shall exceed the number of congressional districts from which appointments are to be made, the members in excess of congressional district appointees shall be appointed from the state at large.

(b) If the number of congressional districts in this state shall be reduced to fewer than six (6), the members of all boards and commissions of this state, including the Legislative Council and the Legislative Joint Auditing Committee, who are selected or apportioned on the basis of congressional districts, shall continue to be selected or apportioned upon the basis of the six (6) congressional districts, as established by Act 297 of 1951 [repealed], until otherwise specifically provided by law.

History. Acts 1967, No. 235, § 2; 1969, No. 465, Art. 4, § 6; A.S.A. 1947, § 3-406.

Cross References. Congressional districts, § 7-2-101 et seq.

25-16-802. [Repealed.]

Publisher's Notes. This section, concerning mileage reimbursement, was repealed by Acts 1997, No. 250, § 237. The section was derived from Acts 1975 (Ex-

tended Sess., 1976), No. 1035, § 1; A.S.A. 1947, § 6-616; reen. Acts 1987, No. 862, § 1. For present law, see § 25-16-901 et seq.

25-16-803. Terms not to expire between biennial general election and Governor's swearing in.

The terms of office of members of boards and commissions of this state which by law expire between the date of the biennial general election and the date of the swearing in of the Governor elected at the election shall be extended until the date of the swearing in of the Governor. However, this section shall have no effect upon the filling of vacancies otherwise occurring during that time period.

History. Acts 1983, No. 225, § 1;
A.S.A. 1947, § 6-627.

25-16-804. Removal and replacement.

(a) As used in this section, unless the context otherwise requires:

(1) "Good cause" includes:

(A) Conduct constituting a criminal offense involving moral turpitude;

(B) Gross dereliction of duty;

(C) Gross abuse of authority; or

(D) The unexcused absence of a board or commission member from three (3) successive regular meetings without attending any intermediary called special meetings; and

(2) "Good cause" does not include any vote, decision, opinion, or other regularly performed or otherwise reasonably exercised power of a board or commission member.

(b)(1) The Governor may remove for good cause a state board or commission member whose office or position is filled by gubernatorial appointment, subject to confirmation by the Senate. If the Senate is not in session, confirmation shall be by written petition of a majority of the senators.

(2) The Governor may appoint a qualified individual to replace the board or commission member removed to serve the remainder of his or her term, subject to confirmation by the Senate under circumstances in which confirmation is normally required.

(c) All orders of removal by the Governor shall:

(1) Be in writing;

(2) Be delivered to the member removed or counsel for the member; and

(3) Specifically set out the grounds relied upon for removal.

(d) Removal of board or commission members shall be in accordance with the following:

(1)(A) Within thirty (30) calendar days after each regular board or commission meeting, the secretary of each board or commission shall notify the Governor in writing of any member who has been absent from three (3) successive regular meetings without attending any intermediary called special meetings.

(B) The secretary's notice to the Governor shall include a copy of all meeting notices and attendance records for the past year;

(2) The Governor may remove any board or commission secretary who fails to submit the notices and documentation required by this section;

(3) Within sixty (60) calendar days after receiving the notice and supporting documentation from the board or commission secretary, the Governor shall notify the board or commission member in writing of his or her intent to remove the member for cause;

(4) Within twenty (20) calendar days after the date of the Governor's notice, the member may request an excused absence as provided by this section or may file notice with the Governor's office that the member disputes the attendance records and the reasons therefor;

(5) The Governor shall grant an excuse for illness of the member when the illness is verified by a written sworn statement by an attending physician or another proper excuse as determined by the Governor; and

(6) After twenty (20) calendar days after the date of the Governor's notice, if no rebuttal is received or other adequate documentation is submitted, the member may be removed.

(e) Any board or commission member referred to the Governor because of excessive absences under the provision of this section shall not be entitled to any per diem, stipend, or expense reimbursement for travel to or attendance at subsequent meetings until the board or commission receives notification from the Governor that the member has been excused for the absences.

(f)(1) A removed board or commission member may institute proceedings for review by filing a petition in Pulaski County Circuit Court within thirty (30) days after delivery to him or her or his or her attorney of the Governor's order of removal.

(2) This petition shall not supersede or stay the order of removal, nor shall any court enter an order to this effect or one which would impair the authority of the Governor to appoint a replacement whose service begins immediately upon fulfillment of the normal requirements for assuming office.

(g)(1) When the matter is heard by the Pulaski County Circuit Court, it shall be tried de novo without a jury.

(2) The Governor shall have the burden of proof to show by clear and convincing evidence that good cause existed for removal of the board or commission member in question from office and for revoking his or her commission.

(3)(A) If the court determines that good cause has been shown, it shall enter an order removing the board or commission member in question from office and revoking his or her commission.

(B) If the court determines that good cause has not been shown by clear and convincing evidence, the court shall order the removed member reinstated to his or her position and upon request shall award a reasonable attorney's fee and court costs to the reinstated party.

(h)(1) Subject to the restrictions of subsection (f) of this section on supersedeas or stay orders, a removed board or commission member

may appeal the decision of the circuit court to the Arkansas Supreme Court.

(2) The Governor may appeal the decision of the circuit court to the Arkansas Supreme Court, but the appeal shall not preclude the circuit court, in its discretion, from entering an order reinstating the removed member.

(i) No board or commission action in which the appointed replacement participates shall be void, voidable, or in any way subject to invalidation on grounds of participation of the appointed replacement or lack of participation by the removed member in the event that the circuit court or the Arkansas Supreme Court orders the removed member reinstated.

History. Acts 1979, No. 160, §§ 1-7; A.S.A. 1947, §§ 12-300.1 — 12-300.7; Acts 2001, No. 453, § 1.

Amendments. The 2001 amendment inserted “or her” throughout; redesignated the former (a)(1) as the present introductory language of (a) and (a)(1) and added (a)(1)(D); redesignated former (c) as present (c)(1) through (c)(3) and deleted

“shall” preceding “be” and “specifically”; added (d) and (e); redesignated former (d) through (g) as present (f) through (i); in present (g)(3), redesignated the first sentence as (g)(3)(A) and the second sentence as (g)(3)(B); and in the present (h)(1) substituted “subsection (f)” for “subsection (d).”

25-16-805. Special board members.

(a) When any member of a state commission, board, council, committee, or similar body is disqualified or is otherwise temporarily unable or unwilling to serve in regard to any matter or matters pending before the entity, the Governor or other appointing authority may appoint a qualified person to serve as a special member of the entity to hear and participate in the decision on the particular matter or matters.

(b) The special board member appointed under this section shall have all authority and responsibility of a regular board member with respect to the particular matter or matters before the entity but shall have no authority or responsibility with respect to any other matter or matters before the board.

(c) The chair of the entity requesting a special board member shall inform the Governor or other appointing authority of the request in writing no later than twenty-four (24) hours prior to the meeting in which the special board member shall serve.

(d) A person appointed as a special member of a state commission, board, council, committee, or similar body pursuant to the provisions of this section shall be entitled to receive stipends and expense reimbursement in the same amount and under the same procedure as prescribed for regular members. The stipends and expense reimbursement shall be paid from the same source as stipends and expense reimbursement payment to regular members.

History. Acts 1993, No. 1251, §§ 1-4; 1997, No. 250, § 238.

inserted “stipends” before “and expense reimbursement” throughout (d).

Amendments. The 1997 amendment

SUBCHAPTER 9 — STATE BOARDS — COMPENSATION

SECTION.

- 25-16-901. Definitions — Limitations.
 25-16-902. Expense reimbursement.
 25-16-903. Stipend — Authorization for \$60.
 25-16-904. Stipend — Authorization for \$85.
 25-16-905. Stipend — Authorization for \$110.

SECTION.

- 25-16-906. Stipend — State employees — Salaried members — Members of General Assembly.
 25-16-907. Effective date.
 25-16-908. Distribution of copies.

Cross References. Rural Medical Practice Student Loan and Scholarship Board, § 6-81-702.

Effective Dates. Acts 1995, No. 1211, § 11: Apr. 11, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that a more uniform system of expense reimbursement and stipend authorization for the various state boards should be implemented as soon as possible; this act so provides; and that this act should go into effect immediately in order to provide for its implementation as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall

become effective on the date the last house overrides the veto."

Acts 1997, No. 966, § 17: Mar. 31, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the statutes regulating the licensure of podiatrists are outdated in part and that the passage of the act before June of 1997 is required in order to guarantee that these laws will apply to persons taking the podiatric medical examination in June. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1018, § 8: Apr. 2, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas Code 25-16-903 authorized members of the Advisory Committee on Petroleum Storage Tanks and members of the State Marketing Board of Recyclables to receive a stipend for attending board meetings; that Arkansas Code 8-7-904 and 8-9-201 were enacted prior to Arkansas Code 25-16-903 and do not mention stipends; that the earlier code sections should be amended to parallel the authority granted in § 25-16-903; that this act makes those technical corrections; and that this act should go into effect as soon as possible in order to avoid confusion. It is further

found and determined by the General Assembly that the current law concerning expense reimbursement for the State Board of Collection Agencies does not conform to Arkansas Code 25-16-901 et seq.; the State Board of Collection Agencies should be allowed to receive a stipend; and that this act is immediately necessary for the effective operation of the State Board of Collection Agencies. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1353, § 20: Sept. 1, 1999, except for sections 15 and 17 of the act which are effective July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the need to register sex or child offenders or sexually violent predators is necessary to ensure the safety of the citizens of Arkansas. Currently, some sex or child offenders or sexually violent predators do not fall within the provisions of the current law and are therefore not required to be registered. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on September 1, 1999. Section 15 and Section 17 of this act shall become effective on July 1, 1999."

Acts 1999, No. 1553, § 23: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that regular examinations for licensure under the Arkansas Chiropractic Practices Act are held in January and July; that brochures containing Arkansas law must be prepared for applicants; that for the effective administration of the Arkansas Chiropractic Practices Act, this act should become effective immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-16-901. Definitions — Limitations.

(a) For purposes of this subchapter, the term "state board" means every state board, commission, committee, council, task force, and similar entity except the General Assembly, the State Highway Commission, and the Arkansas State Game and Fish Commission.

(b) This subchapter shall have no effect on the payment of mileage, expense reimbursement, and per diem authorized by law to be paid to

members of the General Assembly, the State Highway Commission, and the Arkansas State Game and Fish Commission.

History. Acts 1995, No. 1211, § 1.

25-16-902. Expense reimbursement.

(a) Every state board may, by a majority vote of the total membership of the board cast during its first regularly scheduled meeting of each calendar year, authorize expense reimbursement for each board member for performing official board duties.

(b) The expense reimbursement shall not exceed the rate established for state employees by state travel regulations.

History. Acts 1995, No. 1211, § 2.

25-16-903. Stipend — Authorization for \$60.

Each of the following state boards, by a majority vote of the total membership of the board cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed sixty dollars (\$60.00) per meeting attended, and the board members shall receive no other compensation, expense reimbursement, or in-lieu-of payments except as provided in § 25-16-902:

- (1) Arkansas State Board of Public Accountancy;
- (2) Arkansas State Board of Acupuncture and Related Techniques;
- (3) Arkansas Alcohol and Drug Abuse Coordinating Council;
- (4) Alcoholic Beverage Control Board;
- (5) Athletics and Activities Board;
- (6) Arkansas Appraiser Licensing and Certification Board;
- (7) Arkansas State Board of Architects;
- (8) Arkansas Black History Advisory Committee;
- (9) Arkansas History Commission;
- (10) State Board of Barber Examiners;
- (11) Boiler Advisory Board;
- (12) Burial Association Board;
- (13) Capitol Zoning District Commission;
- (14) Arkansas Cemetery Board;
- (15) Arkansas Child Abuse/Rape/Domestic Violence Commission;
- (16) Contractors Licensing Board;
- (17) State Board of Cosmetology;
- (18) State Crime Laboratory Board;
- (19) Board of Developmental Disabilities Services;
- (20) Arkansas Educational Television Commission;
- (21) Board of Electrical Examiners of the State of Arkansas;
- (22) State Board of Election Commissioners;
- (23) Emergency Medical Services Advisory Council;
- (24) State Employment Security Advisory Council;

(25) State Board of Registration for Professional Engineers and Land Surveyors;

(26) State Library Board;

(27) Arkansas Fire Protection Licensing Board;

(28) Arkansas Fire and Police Pension Review Board;

(29) Arkansas State Board of Registration for Foresters;

(30) HVACR Licensing Board;

(31) Liquefied Petroleum Gas Board;

(32) Arkansas Livestock and Poultry Commission;

(33) Marriage and Family Therapy Licensure Board;

(34) Arkansas State Board of Massage Therapy;

(35) Mississippi River Parkway Commission;

(36) Arkansas Motor Vehicle Commission;

(37) Arkansas Natural Heritage Commission;

(38) Arkansas State Board of Nursing;

(39) Arkansas State Occupational Therapy Examining Committee;

(40) State Apprenticeship Committee;

(41) Arkansas State Board of Physical Therapy;

(42) Arkansas Board of Dispensing Opticians;

(43) Advisory Committee on Petroleum Storage Tanks;

(44) Arkansas Board of Podiatric Medicine;

(45) Arkansas Real Estate Commission;

(46) State Marketing Board for Recyclables;

(47) Board of Review;

(48) Arkansas Rural Medical Practice Student Loan and Scholarship Board;

(49) Arkansas Geological Commission;

(50) Advisory Board to the Division of Land Surveys;

(51) Licensing Committee for Operators of Solid Waste Management Facilities for the Arkansas Pollution Control and Ecology Commission;

(52) State and Public School Life and Health Insurance Board;

(53) Department of Human Services State Institutional System Board;

(54) Arkansas State Police Commission;

(55) State Building Services Council;

(56) Arkansas Towing and Recovery Board;

(57) Arkansas Veterans' Commission;

(58) Veterinary Medical Examining Board;

(59) Commission on Water Well Construction;

(60) Arkansas Waterways Commission;

(61) Committee of Plumbing Examiners;

(62) Arkansas Waste Water Treatment Plant Operators' Licensing Committee;

(63) State Board of Collection Agencies;

(64) Elevator Safety Board;

(65) State Apprenticeship Coordination Steering Committee;

(66) Arkansas Board of Hearing Instrument Dispensers; and

(67) Arkansas Tobacco Control Board.

History. Acts 1995, No. 1211, § 3; 1997, No. 250, § 239; 1997, No. 377, § 1; 1997, No. 693, § 1; 1997, No. 697, § 1; 1997, No. 966, § 13; 1997, No. 1018, § 4; 1999, No. 1235, § 1; 1999, No. 1286, § 3; 1999, No. 1553, § 19; 1999, No. 1591, § 5; 2001, No. 1650, § 1.

A.C.R.C. Notes. The Athletics and Activities Board, referred to in (5), has not been created by any Code provision.

The Community Work, Recreation, and Youth Opportunities Commission referred to in former (18) was abolished by Acts 1999, No. 1133, § 1 and is no longer referred to in § 25-16-903.

The State Employee and Public School Personnel Board referred to in former (57) was renamed the State and Public School Life and Health Insurance Board by Acts 1999, No. 1280, § 2 and is referred to by its current name in present (52).

The Governor's Commission on Veterans' Affairs referred to in former (63) was renamed the Arkansas Veterans' Commission by Acts 1999, No. 634, § 1 and is referred to by its current name in present (57).

The Arkansas Board of Hearing Aid Dispensers referred to in the former undesignated subdivision was renamed the Arkansas Board of Hearing Instrument Dispensers by Acts 1999, No. 592, § 4 and is referred to by its current name in present (66).

Amendments. The 1997 amendment by No. 250 added the former last subdivision which was not designated.

The 1997 amendment by No. 377 added a subdivision formerly designated as (67); and added former (68) and former (69).

The 1997 amendment by No. 693 repealed former (43).

The 1997 amendment by No. 697 added a subdivision formerly designated as (67).

The 1997 amendment by No. 966 rewrote former (47).

The 1997 amendment by No. 1018 added a subdivision formerly designated as (67).

The 1999 amendment by No. 1235 substituted "State Apprenticeship Committee" for "[Repealed.]" in present (41); deleted former (61); deleted former (67) as added by Acts 1997, No. 377 and redesignated the remaining subdivisions accordingly; deleted "[As added by Acts 1997, No. 697.]" in present (63); deleted "[As added by Acts 1997, No. 1018.]" in present (64); and made minor punctuation and stylistic changes.

The 1999 amendment by No. 1286 repealed former (49) and former (55).

The 1999 amendment by No. 1553 repealed former (17).

The 1999 amendment by No. 1591 deleted former (43), deleted former (61); deleted former (67) as added by Acts 1997, No. 377 and redesignated the remaining subdivisions accordingly; in (2), inserted "Arkansas State" at the beginning and "and Related Techniques" at the end; inserted "Arkansas" at the beginning of present (49); substituted "Department of Human Services State Institutional System Board" for "State Hospital Board" in present (54); inserted "Arkansas" at the beginning of former (57); substituted "Commission on Water Well Construction" for "Arkansas Water Well Construction Commission" in present (60); deleted "[As added by Acts 1997, No. 697.]" at the beginning of present (63); deleted "[As added by Acts 1997, No. 1018.]" at the beginning of present (64); substituted "State" for "Arkansas" in present (66); added present (68); and made minor punctuation and stylistic changes.

The 2001 amendment substituted "\$60" for "\$50" in the section heading; in the introductory language, deleted "may" following "state boards," substituted "may authorize" for "authorize," and substituted "sixty dollars (\$60.00)" for "fifty dollars (\$50.00)"; deleted (9) and redesignated the remaining subsections accordingly; and substituted "Advisory Board" for "Advisory board" in present (50).

25-16-904. Stipend — Authorization for \$85.

Each of the following state boards, by a majority vote of the total membership of the board cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed eighty-five dollars (\$85.00) per meeting attended, and the board members shall receive no other compensation,

expense reimbursement, or in-lieu-of payments except as provided in § 25-16-902:

- (1) Auctioneers Licensing Board;
- (2) Arkansas Economic Development Commission;
- (3) State Commission on Child Support [repealed];
- (4) Supervisory Board for the Arkansas Crime Information Center;
- (5) Board of Corrections;
- (6) State Board of Education;
- (7) State Board of Embalmers and Funeral Directors;
- (8) State Board of Health;
- (9) Arkansas Health Policy Council;
- (10) State Parks, Recreation, and Travel Commission;
- (11) Arkansas State Board of Pharmacy;
- (12) Arkansas Pollution Control and Ecology Commission;
- (13) Post Prison Transfer Board;
- (14) Arkansas Racing Commission;
- (15) Arkansas Sentencing Commission;
- (16) State Board of Workforce Education and Career Opportunities;
- (17) Oil and Gas Commission;
- (18) Professional Bail Bond Company and Professional Bail Bondsman Licensing Board;
- (19) Arkansas Soil and Water Conservation Commission;
- (20) Red River Commission;
- (21) Board of Trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf;
- (22) Board of Directors for the Arkansas Development Finance Authority; and
- (23) The Final Act Board of Directors.

History. Acts 1995, No. 1211, § 4; 1997, No. 540, § 51; 1997, No. 693, § 2; 1999, No. 1053, § 1; 1999, No. 1286, § 1; 2001, No. 726, § 1; 2001, No. 1650, § 2; 2001, No. 1803, § 6.

A.C.R.C. Notes. The State Board of Vocational Education was abolished and transferred to the State Board of Workforce Education and Career Opportunities by a type 3 transfer under § 25-2-106 by Acts 1997, No. 803, § 2.

Acts 2001, No. 323, § 1, provided: "Legislative intent. The General Assembly, in Act 549 of 1993, established the Arkansas Department of Community Punishment and delineated its purposes. Confusion in the public's perception, with regard to the purposes of the department, exists and will persist because of the inconsistency between the name of the department and its established purposes. The purpose of this act is to provide the department with a name that more accurately describes its

role as an agency that is intended to fulfill the legislatively established purposes of supervision, treatment, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community and to provide its supervisory board with a name consistent with the department's name change."

Acts 2001, No. 323, § 3, provided: "The 'Board of Correction and Community Punishment', as established in Arkansas Code 12-27-104 and 16-93-1203, shall hereafter be known as the 'Board of Corrections'."

Acts 2001, No. 323, § 5, provided: "(a) The Arkansas Code Revision Commission shall make appropriate name changes in the Arkansas Code to implement this act.

"(b) The Arkansas Code Revision Commission is not required to codify this act."

The State Commission on Child Support referred to in (3) was repealed by Acts 1999, Nos. 1508 and 1514; the Board of Correction and Community Punishment

formerly referred to in (5) was renamed the Board of Corrections by Acts 2001, No. 323, § 3; the Arkansas Health Policy Council referred to in (9) was not created by any provision of the Arkansas Code; the Final Act Board of Directors referred to in (23) was created by Acts 2001, No. 1803, § 2.

Amendments. The 1997 amendment by No. 540 substituted "Arkansas Economic Development Commission" for "Arkansas Industrial Development Commission" in (2).

The 1997 amendment by No. 693 added the last subdivision.

The 1999 amendment by No. 1053 repealed former (10) and redesignated the remaining subdivisions accordingly.

The 1999 amendment by No. 1286 designated "Oil and Gas Commission" as present (17); and added (18) through (20); and made stylistic changes.

The 2001 amendment by No. 726 added (21).

The 2001 amendment by No. 1650 substituted "\$85" for "\$75" in the section heading; in the introductory language, deleted "may" following "state boards," substituted "may authorize" for "authorize," and substituted "eighty-five dollars (\$85.00)" for "seventy-five dollars (\$75.00)"; repealed (3); substituted "Corrections" for "Correction and Community Punishment" in (5); added "State" to the beginning of (7) and (10); and added (22) and (23).

The 2001 amendment by No. 1803, in the introductory language, deleted "may" following "state boards" and inserted "may" preceding "authorize payment"; repealed (3); substituted "Corrections" for "Correction and Community Punishment" in (5); added "State" to the beginning of (7) and (10); substituted "Opportunities" for "Opportunities" in (16); deleted "and" from the end of (19); added (21) through (23); and made minor punctuation changes in (20).

25-16-905. Stipend — Authorization for \$110.

Each of the following state boards, by a majority vote of the total membership of the board cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed one hundred ten dollars (\$110) per meeting, examination, evaluation, or inspections attended or for any day while performing any proper business of the board, and the board members shall receive no other compensation, expense reimbursement, or in-lieu-of payments except as provided in § 25-16-902:

- (1) Arkansas State Board of Dental Examiners;
- (2) Arkansas State Medical Board;
- (3) State Board of Optometry;
- (4) Sex Offenders Assessment Committee;
- (5) Arkansas State Board of Chiropractic Examiners; and
- (6) Arkansas Delta Development Commission.

History. Acts 1995, No. 1211, § 5; 1999, No. 492, § 1; 1999, No. 1053, § 2; 1999, No. 1353, § 16; 1999, No. 1553, § 18; 2001, No. 1601, § 10; 2001, No. 1650, § 3.

Amendments. The 1999 amendment by No. 492, in the introductory paragraph, deleted "attended" following "\$100 per meeting" and inserted "examination, evaluation, or inspections attended or for any day while performing any proper business of the board"; and made minor punctuation changes.

The 1999 amendment by No. 1053 added (3); and made minor punctuation and stylistic changes.

The 1999 amendment by No. 1353 added (4) and made stylistic changes.

The 1999 amendment by No. 1553 added (5); and made minor stylistic changes.

The 2001 amendment by No. 1601 added (6) and made related changes.

The 2001 amendment by No. 1650 substituted "\$110" for "\$100" in the section heading; in the introductory language, de-

leted "may" following "boards," substituted "may authorize" for "authorize," and substituted "one hundred ten dollars (\$110)" for "one hundred dollars (\$100)"; and added (6) and made related changes.

25-16-906. Stipend — State employees — Salaried members — Members of General Assembly.

(a) No state employee shall receive any stipend under this subchapter.

(b) Those persons who are paid a salary for serving as a member of a state board shall continue to receive the salary and shall receive no stipend under this subchapter.

(c) State board members who are also members of the General Assembly shall continue to receive mileage, expense reimbursement, and per diem as prescribed for legislators attending meetings of interim committees of the General Assembly.

History. Acts 1995, No. 1211, § 6; substituted "interim committees" for 1997, No. 1354, § 42. "joint interim committees" in (c).

Amendments. The 1997 amendment

25-16-907. Effective date.

(a)(1) Except as provided in subsection (b) of this section, this subchapter becomes effective on a board-by-board basis on the date of the board's first regularly scheduled meeting in 1996, and, thereafter, this subchapter shall be the sole authority for expense reimbursement, per diem, and stipends.

(2) Except as provided in subsection (b) of this section, for boards which do not have regularly scheduled meetings, this subchapter becomes effective on a board-by-board basis on the date of the board's first meeting in 1996, and, thereafter, this subchapter shall be the sole authority for expense reimbursement, per diem, and stipends.

(b) Any state board may, by a majority vote of the total membership of the board cast during any meeting in 1995, exercise its powers under this subchapter for calendar year 1995, but, until a board acts or has the opportunity to act in 1996, the law existing on February 1, 1995, as to the board's expense reimbursement and per diem authorization shall apply.

History. Acts 1995, No. 1211, § 7.

25-16-908. Distribution of copies.

As soon as possible after April 11, 1995, the Department of Finance and Administration shall provide a copy of this subchapter to every state board which is subject to the provisions hereof.

History. Acts 1995, No. 1211, § 7.

CHAPTER 17

MANAGEMENT OF STATE INSTITUTIONS

- SUBCHAPTER.
1. GENERAL PROVISIONS.
 2. HONORARY BOARDS AND COMMISSIONS.
 3. REGULATION OF PROPERTY.

SUBCHAPTER 1 — GENERAL PROVISIONS

- | | |
|---|--|
| SECTION. | SECTION. |
| 25-17-101. Antidiscrimination clause required in contracts. | 25-17-103. Repair of damage to charitable institution. |
| 25-17-102. Allowance of claims against state charitable and educational institutions. | |

Cross References. Purchases for state institutions, § 19-11-101 et seq.

Effective Dates. Acts 1889, No. 17, § 5: effective on passage.

Acts 1911, No. 434, §§ 8, 9: Apr. 1, 1911. Emergency declared.

Acts 1977, No. 954, § 8: Mar. 29, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is in the public interest of this State to utilize fully its human resources; that it is essential to the proper utilization of said resources that an official body be created to study and deter-

mine the best procedure to be followed in order that said human resources of this State may be fully utilized without regard to race, sex, religion, age or economic condition; and, that this Act will create such body and should take effect immediately in order that said body can proceed to effectuate public policy of this State as stated in this Act. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

25-17-101. Antidiscrimination clause required in contracts.

All agencies of the state or any department thereof shall include in all contracts negotiated or renegotiated by them for and on the behalf of the state a provision obligating the contractor not to discriminate against any qualified employee or qualified applicant for employment because of race, color, creed, national origin, or ancestry and shall require the contractor to include a similar provision in all subcontracts.

History. Acts 1977, No. 954, § 6; A.S.A. 1947, § 6-1506; Acts 1991, No. 343, § 9.

25-17-102. Allowance of claims against state charitable and educational institutions.

(a) It shall be unlawful for any board of trustees created under the laws of this state, when the duties of the board are to manage any of the charitable and educational institutions supported wholly or in part by

this state, to allow any greater sum for any account, claim, or demand against the state than the amount actually due in lawful money of the United States, according to the legal, ordinary, and customary compensation for services rendered, materials furnished, and salaries or fees of officers, trustees, attendants, or servants.

(b)(1) Before any account, claim, or demand whatever shall be allowed by any board of trustees, that board shall require a person or his or her legal representative who claims it to be due to attach to the account, claim, or demand an affidavit at the expense of the claimant, that:

(A) The account, claim, or demand is just and correct and no part thereof has been previously paid;

(B) The services charged for or materials furnished, as the case may be, were actually rendered or furnished and the charge made does not exceed the amount allowed by law or the customary charges for similar services or materials;

(C) The account, claim, or demand is not enlarged, enhanced, or otherwise made greater in consequence or by reason of any estimated wrongs, whether supposed or real, arising by reason of any previous contract.

(2) The allowed claim or demand with affidavit attached thereto shall be filed with the Auditor of State and kept in his or her office, subject to inspection by any member of the grand jury of the county or prosecuting attorney of the circuit court.

(c) The General Assembly shall provide a joint committee every two (2) years, whose duty it shall be to examine the accounts thoroughly, together with all allowances made on account of the claims and report them to each branch of the General Assembly.

(d)(1) In all cases, the board of trustees shall require an itemized account of any claim presented to them for allowance, sworn to as required in subsection (b) of this section, and may in all cases require satisfactory evidence, in addition thereto, of the correctness of the account.

(2) The board of trustees may examine the parties and witnesses on oath touching the correctness of the account and shall have the power to compel the production of all books, accounts, papers, and documents which may be necessary in the investigation of any matter coming properly before them and within their jurisdiction.

(e)(1) The board of trustees is prohibited from auditing, approving, or allowing any claim not specifically allowed the claimant by law or contracted for by the board in strict pursuance of the statutes.

(2) The Auditor of State is prohibited from drawing his or her warrant on the Treasurer of State in payment of any claim or demand against the charitable or educational institutions unless the claim or demand shall be itemized and verified as required by subsection (b) of this section, approved and ordered paid by a majority of the board of trustees, and filed in the office of the Auditor of State.

(3) No claim or demand shall be paid unless there is an unexpended appropriation previously made to pay it.

History. Acts 1889, No. 17, §§ 1-4, p. §§ 12512-12515; A.S.A. 1947, §§ 7-101 — 15; 1893, No. 162, § 1, p. 291; C. & M. 7-104.
Dig., §§ 9324-9327; Pope's Dig.,

25-17-103. Repair of damage to charitable institution.

In case of destruction of any of the charitable institutions by fire or tornado, the board of trustees is authorized and empowered upon the approval of the Governor to borrow money at a reasonable rate of interest and immediately repair the damage done to the building.

History. Acts 1911, No. 434, § 6.

SUBCHAPTER 2 — HONORARY BOARDS AND COMMISSIONS

SECTION.

- 25-17-201. Boards created for management of various institutions.
25-17-202. Powers and duties.
25-17-203. Eligibility for membership.
25-17-204. Appointment and terms of members generally.
25-17-205. Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf — Deaf and blind members — Par-

SECTION.

- ents or guardians as members.
25-17-206. [Repealed.]
25-17-207. Oath of members.
25-17-208. Meetings generally.
25-17-209. [Repealed.]
25-17-210. Removal of members generally.
25-17-211. Absence of member from meetings as grounds for removal.
25-17-212. [Repealed.]

Publisher's Notes. Those provisions of Acts 1943, No. 1, which established honorary boards and commissions governing various state institutions, are codified in full in this subchapter and are codified with respect to particular institutions in §§ 6-43-101, 6-43-102, 6-65-103, 6-65-201, 6-65-202, 6-65-301, 6-65-302, 6-66-101, 6-66-102, 6-67-102, 6-67-103.

Effective Dates. Acts 1927, No. 37, § 19: June 30, 1927.

Acts 1943, No. 1, § 9: Jan. 14, 1943. Emergency clause provided: "It is hereby found and declared that amendment No. 33 to the Constitution of the State of Arkansas, which will become effective on January 15, 1943, provides that the General Assembly shall arrange the terms of office of the members of boards charged with the management or control of all charitable, penal, or correctional institutions and institutions of higher learning of the State of Arkansas in such manner that the term of office of one member of said board shall expire each year and that said amendment further provides that the un-

expired terms of members serving on the effective date of the amendment shall not be decreased; and, it is further found and declared that the terms of members of all of said boards do not expire in a manner which will make operative all of the provisions of said amendment. It is found, therefore, that delay in the effective date of this act will create confusion by reason of the uncertain status of present board members, and, that in order to preserve the public peace, health, and safety, an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage and approval."

Acts 1953, No. 140, § 2: Feb. 24, 1953. Emergency clause provided: "It is found by the General Assembly that the Governor, by and with the advice and consent of the Senate, shall appoint the members of the Board of Trustees of the State Agricultural, Mechanical, and Normal College and that due to the congressional redistricting, confusion exists as to the appointment of such members; that such

confusion adversely affects the public peace, health, and safety and further that the provisions of this act are necessary to alleviate such conditions. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in full force from and after its passage and approval."

Acts 1979, No. 497, § 3: Mar. 21, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary to provide that one member of the Board of Trustees of the Arkansas School for the Blind and Arkansas School for the Deaf be a deaf person fluent in sign language; that such is not now required, and that this is immediately necessary to provide such requirement. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1192, § 7: Apr. 11, 1995. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is important to the education and welfare of the students at the Arkansas School for the Blind and the Arkansas School for the Deaf that they receive instruction from caring and qualified individuals; that there is currently a demand for persons qualified in deaf and blind instruction; that persons who are qualified to give instruction in blind and deaf education oftentimes are related to other persons also qualified to give that instruction; that enabling such persons to work together to provide quality education benefits the students at the Arkansas School for the Blind and the Arkansas School for the Deaf; that in order to ensure that such qualified persons are not precluded from providing much needed services to the Arkansas School for the Blind or the Arkansas School for the Deaf it is necessary that this act become effective immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 219, § 5: Feb. 20, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that attendance at board and commission meetings is essential to provide necessary governmental services; that a quorum of board and commission members is necessary to transact essential business and to legally provide and monitor essential governmental services; that the provisions of this act will provide to ensure attendance at board and commission meetings; and that delay in the effective date of this act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-17-201. Boards created for management of various institutions.

The following honorary boards are created:

- (1) A board of five (5) members constituting the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf;
- (2) A board of five (5) members constituting the Board of Corrections;
- (3) A board of seven (7) members constituting the Board of Trustees of the University of Central Arkansas, hereby made and constituted a body politic and corporate;
- (4) A board of seven (7) members constituting the Board of Trustees of Henderson State University, hereby made and constituted a body politic and corporate;
- (5) A board of five (5) members to be appointed from the state at large, constituting the Board of Trustees of Arkansas State University;
- (6) A board of (5) five members to be appointed from counties in the Second Agricultural and Mechanical District, constituting the Board of Trustees of Arkansas Tech University; and
- (7) A board of seven (7) members constituting the Board of Trustees of the Arkansas School for Mathematics and Sciences.

History. Acts 1943, No. 1, § 2; 1953, No. 140, § 1; 1963, No. 161, § 4; 1971, No. 9, § 5; 1971, No. 512, §§ 7, 8; A.S.A. 1947, § 7-201; Acts 1997, No. 948, § 4.

A.C.R.C. Notes. Acts 2001, No. 323, § 1, provided: "Legislative intent. The General Assembly, in Act 549 of 1993, established the Arkansas Department of Community Punishment and delineated its purposes. Confusion in the public's perception, with regard to the purposes of the department, exists and will persist because of the inconsistency between the name of the department and its established purposes. The purpose of this act is to provide the department with a name that more accurately describes its role as an agency that is intended to fulfill the legislatively established purposes of supervision, treatment, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community and to provide its supervisory board with a name consistent with the department's name change."

Acts 2001, No. 323, § 3, provided: "The 'Board of Correction and Community Punishment', as established in Arkansas Code 12-27-104 and 16-93-1203, shall hereafter be known as the 'Board of Corrections'."

Acts 2001, No. 323, § 5, provided: "(a) The Arkansas Code Revision Commission shall make appropriate name changes in the Arkansas Code to implement this act.

"(b) The Arkansas Code Revision Commission is not required to codify this act."

Publisher's Notes. Acts 1943, No. 1, § 2, as amended, also created the following honorary boards which were subsequently abolished or superseded: State Hospital Board; Board of Trustees of Arkansas Tuberculosis Sanatorium (abolished by Acts 1973, No. 320, § 4); Board of Trustees of McRae Memorial Sanatorium (sanatorium abolished by Acts 1967, No. 116); Confederate Home Board (repealed by Acts 1963, No. 161, § 4); Boards of Managers for Boys Industrial Schools and Training Schools for Girls (abolished by Acts 1968 (1st Ex. Sess.), No. 20); Board of Trustees of Magnolia Agricultural and Mechanical College (superseded by § 6-65-401 et seq.); Board of Trustees of Arkansas Agricultural and Mechanical College (abolished by Acts 1971, No. 9); Board of Trustees of Junior Agricultural College (abolished by Acts 1955, No. 84); Board of Trustees of State Agricultural, Mechanical, and Normal College (abolished by Acts 1971, No. 512).

Acts 1943, No. 1, § 1, abolished the following boards and commissions as they existed prior to enactment of the 1943 act: State Hospital; Arkansas Tuberculosis Sanatorium; Thomas C. McRae Sanatorium; Confederate Home; Arkansas School for the Blind and Arkansas School

for the Deaf; State Penitentiary; Boys Industrial Schools; Training School for Girls; Arkansas State Teachers College; Henderson State Teachers College; Arkansas State College; Arkansas Polytechnic College; Agricultural and Mechanical

College, 3rd District; Arkansas Agricultural and Mechanical College; Junior Agricultural College; and State Agricultural, Mechanical and Normal School.

Amendments. The 1997 amendment added (7).

CASE NOTES

Cited: Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1968); Walther v. McDonald, 243 Ark. 912, 422 S.W.2d 854 (1968).

25-17-202. Powers and duties.

The boards created in § 25-17-201 are charged with the management and control of the respective institutions of the State of Arkansas.

History. Acts 1943, No. 1, § 3; A.S.A. 1947, § 7-202.

Publisher's Notes. Acts 1943, No. 1, § 3, provided, in part, that the honorary boards created in § 6-67-102 would have the power, authority, and duties formerly

exercised by the boards they succeeded and that those boards which were constituted as corporations were charged with the liabilities of the corporate bodies which they succeeded.

CASE NOTES

Cited: Starnes v. Sadler, 237 Ark. 325, 372 S.W.2d 585 (1963); Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1968).

25-17-203. Eligibility for membership.

(a) Members of the boards appointed by the Governor under the provisions of § 25-17-201, in addition to possessing the qualifications of an elector, shall reside in the State of Arkansas.

(b) The Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, Commissioner of State Lands, Justices of the Supreme Court, and the directing head of any state department, state agency, or state institution shall be ineligible for membership on any of the boards provided for in § 25-17-201 during the time for which they were elected or appointed.

(c) No individual may be a member of more than one (1) of the boards created under the provisions of § 25-17-201 at the same time.

History. Acts 1943, No. 1, § 5; A.S.A. 1947, § 7-204; Acts 1991, No. 795, § 2.

25-17-204. Appointment and terms of members generally.

(a) By and with the advice and consent of the Senate, the Governor shall appoint the members of the boards.

(b) The term of office for each member shall commence January 15 and shall end on January 14 of the fifth or seventh year, as the number

of years the full term may be, following the year in which the term commenced. The terms shall be arranged so that the term of one (1) member of each board shall expire each year.

(c)(1) Within twenty (20) days after the convening of the General Assembly in regular session, the Governor shall submit to the Senate for confirmation the names of those board members and appointees who are by law required to be confirmed by the Senate.

(2) However, the names of appointees to fill vacancies which occur after the first twenty (20) days of the session of the General Assembly, but prior to the adjournment thereof, shall be submitted within five (5) days from the date of each vacancy.

(3) In the event of rejection by the Senate of an appointee whose name has been so submitted, the Governor shall submit the name of another appointee to fill the vacancy within ten (10) days after receipt of written notice from the Secretary of the Senate of the rejection.

(4) In the event the Governor within the time herein required should fail to appoint or fail to submit to the Senate for confirmation the name of any appointee, then the office shall be vacant, and the Senate shall proceed to fill the vacancy by an appointee of its own choice.

(d) Any vacancies arising in the membership of the boards for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by the appointment of the Governor, subject to the approval by a majority of the remaining members of the respective boards and shall be thereafter effective until the expiration of the regular terms.

(e) The Secretary of State shall furnish a certificate to each board member within ten (10) days following appointment, whereupon the appointee shall notify the Governor and the Secretary of State in writing of his or her acceptance of the appointment within thirty (30) days. If the appointee shall fail to give notice of his or her acceptance within the time required, then the appointment shall be declared void and another appointment shall be made.

History. Acts 1943, No. 1, §§ 4, 6; 1947, No. 417, § 1; A.S.A. 1947, §§ 6-601, 7-203, 7-205.

Publisher's Notes. Pursuant to Ark. Const. Amend. 33, members of five-member boards serve terms of five years, mem-

bers of seven-member boards serve terms of seven years, and members of ten-member boards serve terms of ten years.

Cross References. Filling vacancies in boards, Ark. Const. Amend. 33, § 5.

CASE NOTES

Applicability.

This section does not apply to the Public Service Commission. Walther v.

McDonald, 243 Ark. 912, 422 S.W.2d 854 (1968).

25-17-205. Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf — Deaf and blind members — Parents or guardians as members.

(a) There shall be at all times one (1) member of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf who is a deaf person who fluently utilizes deaf sign language.

(b) The second vacancy arising on the board shall be filled by the appointment of a person who is legally blind.

(c)(1) The Governor shall appoint one (1) person who is the parent of a blind student and one (1) person who is the parent of a deaf student to serve as advisory nonvoting members of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf.

(2) The term of office of the advisory members shall be the same as the term of office of the other members of the board. Any vacancy arising in an advisory position shall be filled in the same manner as those of other vacancies arising in the membership of the board.

(3) A state employee who is a parent or a legal guardian of a student at the Arkansas School for the Blind or the Arkansas School for the Deaf shall be eligible to serve as a regular or advisory member of the board.

History. Acts 1979, No. 497, § 1; A.S.A. 1947, § 7-203.1; Acts 1991, No. 795, § 1; 1993, No. 450, § 1. **Publisher's Notes.** Acts 1979, No. 497, § 1, is also codified as § 6-43-101.

25-17-206. [Repealed.]

Publisher's Notes. This section, concerning appointment of an advisory member of the Board of Correction, was repealed by Acts 1993, No. 549, § 9. The section was derived from Acts 1979, No. 918, § 1; A.S.A. 1947, § 7-203.2; Acts 1987, No. 972, § 1.

25-17-207. Oath of members.

(a) Before entering upon his or her respective duties, each board member shall take, subscribe, and file in the office of the Secretary of State an oath that he or she will support the Constitution of the United States and the Constitution of the State of Arkansas, that he or she will faithfully perform the duties of the office upon which he or she is about to enter, and that he will not be or become directly or indirectly interested in any contract made by the board.

(b)(1) Any violation of the oath shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars (\$500) or by imprisonment of not less than six (6) months, or by both fine and imprisonment.

(2) Any contract entered into in violation of the oath shall be null and void.

History. Acts 1943, No. 1, § 6; A.S.A. 1947, § 7-205.

25-17-208. Meetings generally.

(a)(1) Unless otherwise provided by law, each honorary board or commission shall meet in regular session at least once each semiannual period and shall meet in special session as often as its business may require.

(2) As used in this section, the term “honorary board or commission” means any state board or commission whose members receive no compensation other than stipends or reimbursement of expenses.

(b)(1) All meetings shall be open to the public except when the board or commission has under consideration the employment, discharge, or investigation of an individual.

(2) The board or commission by a majority vote thereof may declare the matter they are about to consider to be privileged and may declare a closed session for the period of time during which this matter is being discussed.

(3) At the end of that time and before any new subject is discussed, the secretary of the board or commission shall announce to the public and press who may be in attendance that the meeting is reopened for the discussion of further business.

History. Acts 1947, No. 417, § 2; 1949, No. 75, § 1; A.S.A. 1947, § 6-602; Acts 1991, No. 248, § 1; 1997, No. 250, § 240.

Amendments. The 1997 amendment

substituted “other than stipends or reimbursement” for “other than per diem or reimbursement” in (a)(2).

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268 (1984).

25-17-209. [Repealed.]

Publisher’s Notes. This section, concerning reimbursement for expenses, was repealed by Acts 1997, No. 250, § 241.

The section was derived from Acts 1943, No. 1, § 7; A.S.A. 1947, § 7-206. For present law, see § 25-16-901 et seq.

25-17-210. Removal of members generally.

(a) The Governor shall have the power to remove any member of an honorary board before the expiration of his or her term for cause only, after notice and hearing.

(b) The removal shall become effective only when approved in writing by a majority of the total number of the board, but the member removed or his or her successor shall have no right to vote on the question of removal.

(c) The documentation of removal action shall be filed with the Secretary of State together with a complete record of the proceedings at the hearing.

(d)(1) An appeal may be taken to the Pulaski County Circuit Court by the Governor or the member ordered removed, and the appeal shall be tried de novo on the record of the hearing before the Governor.

(2) An appeal may be taken from the circuit court to the Supreme Court, where the appeal shall likewise be tried de novo.

History. Acts 1943, No. 1, § 6; A.S.A. 1947, § 7-205.

Cross References. Removal of board members, Ark. Const. Amend. 33, § 4.

25-17-211. Absence of member from meetings as grounds for removal.

(a) **ATTENDANCE REQUIRED.** In order to ensure broad representation and a quorum, all board or commission members have a responsibility to attend all regular or special meetings of the board or commission.

(b) **EXCESSIVE ABSENCES.** A board or commission member shall be subject to removal from the board or commission in the event the member shall fail to present to the Governor a satisfactory excuse for his or her absence. Unexcused absences from three (3) successive regular meetings, without attending any intermediary called special meetings, shall constitute sufficient cause for removal.

(c) **NOTICE AND REMOVAL PROCEDURES.** Removal of board or commission members shall be in accordance with the following:

(1)(A) Within thirty (30) days after each regular board or commission meeting, the secretary of each board or commission shall notify the Governor in writing of any member who has been absent from three (3) successive regular meetings without attending any intermediary called special meetings.

(B) The secretary's notice to the Governor shall include a copy of all meeting notices and attendance records for the past year;

(2) Any board or commission secretary's failing to submit the notices and documentation required by this section shall be considered cause for removal by the Governor in accordance with the procedures set forth at § 25-17-210;

(3)(A) Within sixty (60) days after receiving the notice and supporting documentation from the board or commission secretary, the Governor shall notify the board or commission member in writing of his or her intent to remove the member for cause.

(B) This notice shall suffice for the notice required in § 25-17-210(a);

(4) Within twenty (20) days of the date of the Governor's notice, the member may request an excused absence as provided by this section or may file notice with the Governor's office that the member disputes the attendance records and the reasons thereby;

(5) The Governor shall grant an excuse for illness of the member when the illness is verified by a written sworn statement by the attending physician or other proper excuse as determined by the Governor; and

(6) After twenty (20) days of the date of the Governor's notice, if no rebuttal is received or other adequate documentation submitted, the

member may be removed in accordance with the provisions set forth at § 25-17-210.

(d) **REIMBURSEMENTS WITHHELD.** Any board or commission member referred to the Governor because of excessive absences under the provisions of this section shall not be entitled to any per diem or expense reimbursement for travel or attendance of any subsequent meeting until the board or commission receives notification from the Governor that the member has been excused for the absences.

History. Acts 1947, No. 417, § 3; 1949, No. 75, § 2; 1961, No. 66, § 1; A.S.A. 1947, § 6-603; Acts 1997, No. 219, § 1.

Amendments. The 1997 amendment rewrote this section.

25-17-212. [Repealed.]

Publisher's Notes. This section, concerning the appointment and powers of superintendents, was repealed by Acts 2001, No. 612, § 1. The section was de-

rived from Acts 1927, No. 37, §§ 12-14; Pope's Dig., §§ 12798-12800; Acts 1963, No. 514, § 1; A.S.A. 1947, §§ 7-208 — 7-210; Acts 1995, No. 1192, § 2.

SUBCHAPTER 3 — REGULATION OF PROPERTY

SECTION.

25-17-301. Definitions.

25-17-302. Applicability — Cumulative effect.

25-17-303. Enforcement.

25-17-304. Appointment and removal of security officers.

25-17-305. Security officer's duties and powers.

SECTION.

25-17-306. Security officers exempt from personal liability.

25-17-307. Rules and regulations for motor vehicles on institutional grounds.

Effective Dates. Acts 1967, No. 328, § 12: Mar. 13, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State of Arkansas has a substantial investment in its institutions and the lands and improvements devoted to their functions; that doubts exist concerning the right to police and regulate certain activities which should be regulated for the protection of these state institutions; that urgent reasons exist for providing for the adequate police authority which this enactment will achieve; and that only by the immediate passage of this act may these objectives be achieved. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety and for the protection of the public property, shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 325, § 4: Mar. 17, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the maintenance of peace and order and the protection of public property and safety of persons and their property, who utilize the facilities of state parks is essential to the efficient and orderly use of said parks by the public, and that the immediate passage of this act is necessary to authorize the Department of Parks and Tourism to designate security officers to have the same powers to maintain law and order, and to protect the public peace in state parks as is now authorized for state supported institutions. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

25-17-301. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Executive head", when used with reference to the University of Arkansas, means the President of the University of Arkansas;

(2) "Institution" means the educational, charitable, correctional, penal, and other institutions owned and operated by the State of Arkansas and shall include the respective state parks of this state;

(3) "Property" means both real and personal property owned by or under the control of the institution and shall include all highways, streets, alleys, and rights-of-way that are contiguous or adjacent to property owned or controlled by the institution; and

(4) "Property under the control of" shall include that property upon which any registered institutional organization is maintained.

History. Acts 1967, No. 328, § 1; 1971, No. 325, § 1; 1981, No. 805, §§ 1, 4; A.S.A. 1947, §§ 7-112, 7-112.1.

CASE NOTES**In General.**

Where campus patrolman had witnessed traffic offenses and could form a reasonable belief that the defendant was intoxicated, such firsthand information and fact that he began pursuit within his jurisdiction, demonstrated that the pa-

trolman was well within the bounds of his authority when he pursued the defendant for four blocks in the course of fresh pursuit and made the arrest outside the patrolman's jurisdiction. *Smith v. City of Little Rock*, 305 Ark. 168, 806 S.W.2d 371 (1991).

25-17-302. Applicability — Cumulative effect.

(a) This subchapter shall apply to and encompass all lands, buildings, and improvements which are owned by each respective state institution which may be owned by the State of Arkansas for the use of the institution, or which may be under the control of the institution but is not to be interpreted as in any way interfering with the ownership and control which is by law vested in the governing board of each institution as to its lands, buildings, and improvements.

(b) The provisions of this subchapter shall be cumulative to any remedies which each institution may possess for enforcing its rules and regulations, including its rights to impose sanctions through fees and charges and its rights to discipline, deny service, and expel.

History. Acts 1967, No. 328, § 6; A.S.A. 1947, § 7-117.

25-17-303. Enforcement.

(a) The prosecuting attorney or the city attorney, as may be appropriate, shall appear and prosecute all actions arising in any court under the provisions of this subchapter.

(b) All fines which may be collected by any court on account of the violation of § 5-40-104 or § 25-17-307 shall be paid into the same fund as are fines levied for the same or similar violations by the court hearing the matter.

History. Acts 1967, No. 328, § 7;
A.S.A. 1947, § 7-118.

25-17-304. Appointment and removal of security officers.

(a) The executive heads of each of the educational, charitable, correctional, penal, and other institutions owned and operated by the State of Arkansas, including the executive head of the Department of Parks and Tourism, are authorized and empowered to designate and appoint one (1) or more of the employees of the institutions and department, respectively, as security officer or officers for the institution or at a state park, or any separate portion of the institution or park, who shall be peace officers under the laws of this state.

(b) These officers shall have all the powers provided by law for city police and county sheriffs to be exercised as required for the protection of the respective state institutions and state parks, together with any other duties which may be assigned by the employing institution or department.

(c) None of the present jurisdictional powers or responsibility of the county sheriffs or city police over the land or property of institutions or persons on the land shall be ceded to the security officers of state institutions. The appointment or designation of institutional security officers shall not be deemed to supersede, in any way, the authority of the state police or the county sheriffs or that of the peace officers of the jurisdiction within which the institution, or portions of it, shall be located.

(d) Institutional security officers shall be identified by a shield or badge bearing the name of the state institution.

(e)(1) A security officer's authorization to have and to exercise the powers provided by law for peace officers shall be further evidenced by a certificate of appointment issued under the seal of the institution and carried on his or her person at all times when on duty.

(2) The executive head of the institution and the executive head of the department shall maintain in a well-bound book a copy of all the authorizations issued to employees of the state institution or of the department.

(3) The executive head of the state institution or the department shall have the authority to remove an employee from the execution of those designated duties, including the authority to revoke in writing the authorization to serve as a peace officer for the institution or department. Upon termination of that authority, the person shall no longer possess or exercise the authority of a peace officer. A copy of all revocations shall be placed in the record book mentioned in subdivision (e)(2) of this section.

History. Acts 1967, No. 328, §§ 1, 8; 1971, No. 325, § 1; 1981, No. 805, § 1; A.S.A. 1947, §§ 7-112, 7-119.

CASE NOTES

Certificate of Appointment.

Patrolman's failure to have his certificate of appointment with him was harm-

less error and not fatal to the arrest. *Smith v. City of Little Rock*, 305 Ark. 168, 806 S.W.2d 371 (1991).

25-17-305. Security officer's duties and powers.

(a) A security officer appointed pursuant to the authority of § 25-17-304, except to the extent otherwise limited by the executive head of the state institution or department appointing him or her, shall protect property, preserve and maintain proper order and decorum, prevent unlawful assemblies and disorderly conduct, exclude and eject persons detrimental to the well-being of the institution, prevent trespass, and regulate the operation and parking of motor vehicles upon and in all of the grounds, buildings, improvements, streets, alleys, and sidewalks under the control of the institution employing him or her.

(b) He or she shall have and exercise police supervision on behalf of the institution and is authorized as a peace officer to arrest any person upon or in the areas described in subsection (a) of this section who is committing an offense against any law of the State of Arkansas or against the ordinances of the city wherein the institution is located and to deliver that person before any court of competent jurisdiction to be dealt with according to law. He or she shall have the authority to summon a posse comitatus if necessary.

History. Acts 1967, No. 328, § 2; 1981, No. 805, § 2; A.S.A. 1947, § 7-113.

CASE NOTES

Fresh Pursuit.

Where campus patrolman had witnessed traffic offenses and could form a reasonable belief that the defendant was intoxicated, such firsthand information and fact that he began pursuit within his jurisdiction, demonstrated that the pa-

trolman was well within the bounds of his authority when he pursued the defendant for four blocks in the course of fresh pursuit and made the arrest outside the patrolman's jurisdiction. *Smith v. City of Little Rock*, 305 Ark. 168, 806 S.W.2d 371 (1991).

25-17-306. Security officers exempt from personal liability.

Any security officers so appointed and designated and any other institutional employees so authorized executing the duties delegated to them pursuant to this subchapter shall not be personally liable for injuries to persons or for damages to property dealt with while acting within the scope of their authorized authority on behalf of the State of Arkansas and its institutions.

History. Acts 1967, No. 328, § 9;
A.S.A. 1947, § 7-120.

25-17-307. Rules and regulations for motor vehicles on institutional grounds.

(a) Each of the institutions described in § 25-17-301 is authorized and empowered to promulgate rules and regulations and to amend or change them from time to time as its governing board shall deem necessary, providing for the operation and parking of motor vehicles upon the grounds, streets, drives, and alleys under its control, including, but not limited to, regulations:

- (1) Limiting the rate of speed;
- (2) Assigning parking spaces and designating parking areas and their uses and collecting rent for those spaces;
- (3) Prohibiting parking as it deems necessary;
- (4) Removing vehicles parked in violation of institutional rules and regulations or city ordinances, at the expense of the violator, who shall pay the expense before the vehicle is released;
- (5) Instituting a system of motor vehicle registration for the identification and regulation of vehicles regularly using institutional premises, including a reasonable charge to defray the cost thereof; and
- (6) Collecting, under an established system, administrative charges for violations of institutional rules and regulations governing motor vehicles, their operation, and parking. However, an administrative finding of violation may be appealed to the appropriate municipal court where the matter shall be heard de novo.

(b) Rules and regulations, together with any amendments thereto, which may from time to time be adopted by a state institution for the regulation of operation and parking of motor vehicles shall be recorded in the official minutes of the governing board having supervision of the institution, shall be filed with the Secretary of State, and shall be printed, with copies available at convenient locations at the institution or at any separate portion thereof.

(c) Speed limits shall be posted at reasonable intervals, and traffic and parking directions and prohibitions shall be indicated by signs.

(d) From and after the promulgation of the rules and regulations, it shall be unlawful for any person to operate or to park a motor vehicle in violation thereof. Any person violating or refusing to comply with the rules and regulations if not otherwise provided for by city ordinance shall be subjected to a reasonable administrative charge stated in the promulgated rules and regulations.

(e)(1) Persons violating institutional rules and regulations promulgated under this section while using a motor vehicle registered with the institution at the option of the security officer shall be charged under the institution's system of charges or summoned to appear before any court of competent jurisdiction, to be dealt with according to law. A person adversely affected by any administrative determination as described shall have a right to appeal therefrom to the appropriate municipal court where the matter shall be heard de novo.

(2) Persons violating institutional rules and regulations under this section while using a motor vehicle not registered with the institution or persons violating city ordinances shall be summoned to appear before the court. Notice placed on the vehicle shall be sufficient as a summons for the purposes of this section.

History. Acts 1967, No. 328, §§ 4, 5; A.S.A. 1947, §§ 7-115, 7-116.

CASE NOTES

Cited: Markham v. State, 303 Ark. 438, 798 S.W.2d 58 (1990).

CHAPTER 18
PUBLIC RECORDS

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. STATE PUBLICATIONS.
- 3. DEPOSITORIES.
- 4. SETTLEMENT AGREEMENTS.
- 5. CONTRACTS.

RESEARCH REFERENCES

Am. Jur. 66 Am. Jur. 2d, Records, § 1 et seq. **C.J.S.** 76 C.J.S., Records, § 93 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 25-18-101. Reproduction of records generally.
- 25-18-102. Microfilming of records by

SECTION.

- Secretary of State.
- 25-18-103. Fee for facsimile copies.

Preambles. Acts 1947, No. 281 contained a preamble which read: "Whereas, the Board of Fiscal Control recognized the necessity of microfilming invaluable state documents and records as a protection against fire and other hazards, to conserve valuable storage space in the State Capitol Building, and to comply with federal statutes allowing such microfilm records and facsimiles to be admitted as evidence in all courts, departments, bureaus, and

commissions, on the same status as the original documents or records; and
"Whereas, the board authorized the purchase of initial equipment and the employment of an operator to inaugurate this program so that the members of the General Assembly could visually examine the program thereby being better able to understand the importance and necessity of its continuance; and
"Whereas, the federal government,

other states, and many counties in Arkansas are now microfilming their land and other records and it is highly important that state land and other state records and documents be microfilmed for the use of federal, state, and county officials, and employees, and the public generally;

Now therefore...."

Effective Dates. Acts 1947, No. 218, § 6: Mar. 18, 1947. Emergency clause provided: "There being no provision of law whereby photostatic microfilm or photographic reproductions of writings, docu-

ments, or records may be admissible in evidence, and because facilities for storage of public records are now taxed to capacity; and because space must be provided for such public records and because it is necessary for the immediate preservation of the public peace, health, and safety of the inhabitants of the state; an emergency exists within the meaning of the Constitution and this act shall be in full force and effect from and after its passage and approval."

RESEARCH REFERENCES

ALR. Privilege accorded state or local governmental administrator of records relating to private individual member of public affecting defamation action. 40 ALR 4th 318.

Legitimate research justifying inspection of state or local public records not

open to inspection by general public. 40 ALR 4th 333.

What constitutes a public record or document within statute making falsification, forgery, mutilation, removal, as other misuse thereof an offense. 75 ALR 4th 1067.

25-18-101. Reproduction of records generally.

(a) For the purposes of this section, "business" means and includes business, industry, profession, occupation, and calling of every kind.

(b)(1) The head of any business or head of any state, county, or municipal department, commission, bureau, or board may cause any or all records kept by the official, department, commission, board, or business to be photographed, microfilmed, photostated, or reproduced on film. At the time of reproduction, he or she shall attach his or her certificate to the record certifying that it is the original record, and the certificate shall be reproduced with the original.

(2) The film or reproducing material shall be of durable material, and the device used to reproduce records on the film or material shall be such as to accurately reproduce and perpetuate the original records in all details.

(c)(1) The photostatic copy, photograph, microfilm, or photographic film of the original records shall be deemed to be an original record for all purposes and shall be admissible in evidence in all courts or administrative agencies.

(2) A facsimile, exemplification, or certified copy of a record for all purposes recited in this subsection shall be deemed to be a transcript, exemplification, or certified copy of the original.

(d) Whenever photostatic copies, photographs, microfilms, or reproductions on films of public records kept by a state official, department, commission, or board shall be placed in conveniently accessible files and provision made for preserving, examining, and using them, the head of the state department, commission, bureau, or board may certify those

facts to the Governor, who shall have the power to authorize the disposal, archival storage, or destruction of the records or papers.

History. Acts 1947, No. 218, §§ 1-4; A.S.A. 1947, §§ 16-501 — 16-504.

Cross References. Photographic recording authorized, § 16-46-101.

Publisher's Notes. Acts 1947, No. 218, §§ 1, 2, 4, are also codified as §§ 14-2-201 — 14-2-203.

RESEARCH REFERENCES

Ark. L. Rev. Documentary Evidence — Arkansas, 15 Ark. L. Rev. 79.

dence (Searcy Woods Harrell, Jr.), 18 Ark. L. Rev. 125.

Legislation — No. 235 — Photographic Copies of Documents Held in a Custodial or Fiduciary Capacity Admissible as Evi-

Authentication and Identification, 27 Ark. L. Rev. 332.

CASE NOTES

Admissibility.

Where photographic copies of an out-of-state marriage license and certificate of

marriage were not authenticated they were not admissible. *Davis v. Davis*, 251 Ark. 423, 473 S.W.2d 172 (1971).

25-18-102. Microfilming of records by Secretary of State.

(a) The Secretary of State is authorized and empowered to proceed to have microfilmed any state records and documents which, in his or her opinion, with the advice of the State Board of Finance and the heads of the various state departments, may be of the most importance from an historical and legal point of view.

(b) The microfilm records shall be properly indexed and placed in a fireproof vault which will be available to all department heads, officials, employees, and the public. The operator and supervisor are directed to place the microfilm record of all state documents or records on the microfilm reader machine for the use of any citizens, officials, or employees of the state at their request.

(c) The Secretary of State is charged with the general direction of this microfilming program, provided that the Governor by proclamation may transfer these duties to some other official or department.

History. Acts 1947, No. 281, § 2; A.S.A. 1947, § 12-414.

25-18-103. Fee for facsimile copies.

The fees charged by the Secretary of State for facsimile copies of any state record document shall be the same as is provided by law for certified copies.

History. Acts 1947, No. 281, § 3; A.S.A. 1947, § 12-415.

SUBCHAPTER 2 — STATE PUBLICATIONS

SECTION.

- 25-18-201. [Repealed.]
- 25-18-202. Messages, reports, and other documents — Number of copies.
- 25-18-203. Messages, reports, and other documents — Covers and title pages.
- 25-18-204. Journals of legislative proceedings.
- 25-18-205. Acts of General Assembly — Index — Printing — Certification.
- 25-18-206. Digests, acts, and journals — Distribution.
- 25-18-207. Digests, acts, and journals — Delivery to successors — Annual settlement.
- 25-18-208. Digests, acts, and journals — Lost or destroyed books.
- 25-18-209. Sale of digests and acts — Price.
- 25-18-210. Supreme Court and Court of Appeals reports — Distribution.
- 25-18-211. Supreme Court and Court of Appeals reports — Additional set for Supreme Court Justices and Court of Appeals Judges.
- 25-18-212. Supreme Court and Court of Appeals reports — Duties of clerks.
- 25-18-213. Supreme Court and Court of Appeals reports — Annual check of county libraries and clerks' offices.

SECTION.

- 25-18-214. Supreme Court and Court of Appeals reports — Replacement of missing books by the clerk.
- 25-18-215. Supreme Court and Court of Appeals reports — Replacement of destroyed volumes.
- 25-18-216. Supreme Court and Court of Appeals reports — Number of copies reserved by Administrative Office of the Courts.
- 25-18-217. Supreme Court and Court of Appeals reports — Expense of distribution.
- 25-18-218. Supreme Court and Court of Appeals reports — Size — Sale price.
- 25-18-219. [Repealed.]
- 25-18-220. Exchange of books with federal, state, and foreign entities.
- 25-18-221. Distribution of reports and proceedings of General Assembly to Law Library Association, Inc., Shelby County, Tennessee.
- 25-18-222. References to deaf people.
- 25-18-223. Book report of Secretary of State.
- 25-18-224. Distribution of quasijudicial opinions and orders.
- 25-18-225. Publishing and distribution of Arkansas acts.

Preambles. Acts 1893, No. 85 contained a preamble which read: "Whereas, The index to the Acts of the General Assembly is a matter of great convenience and importance to the general public; and
 "Whereas, The index to these books is generally so imperfect and inaccurate as to make it very difficult to readily refer to the matters contained therein; therefore..."

Acts 1937, No. 97 contained a preamble which read: "Whereas, the Law Library Association, Inc., of Shelby County, Tennessee, an eleemosynary institution of the City of Memphis, County of Shelby, State of Tennessee, organized and supported by

the members of the Bar of the City of Memphis, County of Shelby, State of Tennessee, maintains for use of its members a fully equipped law library in the City of Memphis, County of Shelby, State of Tennessee; and

"Whereas, the County of Shelby, State of Tennessee, furnishes without charge quarters for said library in the Shelby County Courthouse; and

"Whereas, the sole and only source of revenue of said association consists of donations from interested persons and dues from its resident members; and

"Whereas, the facilities of said association are open to non-resident lawyers

without charge therefor, and said association, through its officers and its members, has consistently urged members of the Bar of Arkansas to make use of its facilities without the slightest charge therefor; and

"Whereas, such privilege is of inestimable benefit to the lawyers practicing in this state because of the fact that the lawyer of a small town cannot maintain or equip a library with the facilities afforded by said association except at an exorbitant cost: Now, Therefore...."

Acts 1951, No. 84 contained a preamble which read: "Whereas, there are now only a small number of the justices of the peace in this state conducting justice courts and engaging in the active hearing of cases; and

"Whereas, in a great majority of instances, the duties of hearing and trying cases before justices of the peace have been transferred to municipal courts, and in such cases, the justices of the peace are not actively engaged in hearing either civil or criminal cases;

"Now therefore...."

Effective Dates. Acts 1868, No. 33, § 6: effective on passage.

Acts 1874, No. 6, p. 42, § 27: effective on passage.

Acts 1877, No. 74, § 5: effective on passage.

Acts 1891, No. 124, § 3: effective on passage.

Acts 1891, No. 154, § 8: effective on passage.

Acts 1921, No. 207, § 7: Emergency declared.

Acts 1939, No. 162, § 4: Emergency declared.

Acts 1955, No. 429, § 6: Mar. 30, 1955. Emergency clause provided: "It has been found and determined by the General Assembly that the volumes of the Arkansas Reports included in this act are out of print and cannot now be obtained in bound form, resulting in confusion and uncertainty and great inconvenience to a large portion of population and this act being necessary for the immediate correction of this dire situation and for the preservation of the public peace, health, and safety of the people of the State of Arkansas, an emergency is hereby declared to exist and this act shall be in full force and effect upon its approval."

Acts 1973, No. 835, § 5: Apr. 16, 1973.

Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential for the administration of justice and for the administration and enforcement of the fiscal laws of this State that early printing and distribution of the Acts of the General Assembly shall be expeditious as possible, in order that the courts, public officials and citizens of this State may be advised of the laws that have been enacted and of the changes made in existing laws; and that the immediate passage of this Act is necessary in order to provide for the funds whereby the Secretary of State may requisition the printing of the Acts as provided by law without undue delay. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect after its passage and approval."

Acts 1975, No. 328, § 3: Mar. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is immediately necessary to increase the charge collected for printed copies of the Arkansas Supreme Court Reports, in order to enable the State of Arkansas to recover the cost of printing said Reports, and that clarification is immediately needed with respect to the procedures to be followed in the sale and distribution of certain copies of said Reports, and that the immediate passage of this Act is necessary to correct this situation. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 831, § 4: Apr. 4, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential for the administration of justice and for the administration and enforcement of the fiscal laws of this State; that early printing and distribution of the Acts of the General Assembly shall be expeditious as possible, in order that the courts, public officials and citizens of this State may be advised immediately of the laws that have been enacted and of the changes made in existing laws; and that the immediate passage of this Act is necessary in order to provide for the

funds whereby the Secretary of State may requisition the printing or reproduce the Acts as provided by law without undue delay. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force from and after its passage and approval."

Acts 1979, No. 664, § 5: Mar. 30, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that there is an immediate need to provide qualified interpreters for deaf persons at administrative, civil and criminal proceedings and that this Act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 644, § 3: Apr. 4, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is immediately necessary that the price to be charged by the Secretary of State for volumes of the Arkansas Supreme Court Reports must be increased to enable the State to recover the costs of printing and binding of the volumes and the postage cost for mailing; that this Act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 1063, § 4: Apr. 17, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that sufficient funding was not provided to the Secretary of State to print, mail and distribute the complimentary copies of the Bound Book Report which is an historical report issued every ten years; that the current financial situation will not permit the number of complimentary copies to remain the same nor to provide additional funds to complete the contract; and that this Act will allow the Secretary of State the flexibility in his current operating appropriation to fulfill the State's commitment and to lower the number of required copies to be

printed. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 709, § 21: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 879, § 10: Apr. 3, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law concerning the publication and distribution of the acts of Arkansas is in need of modification; that this act provides the necessary modifications; and that this act should go into effect immediately in order to provide for the publication and distribution of the acts of this regular session as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 976, § 25: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1,

1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.”

Acts 1999, No. 751, § 9: Mar. 22, 1999. Emergency clause provided: “It is hereby found and determined by the General Assembly that there are presently inadequate statutory guidelines for the codifications of the acts of the General Assembly; this act establishes necessary guidelines; and this act should go into

effect immediately in order that the guidelines will be in effect for the codification of the acts of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

25-18-201. [Repealed.]

Publisher’s Notes. This section, concerning the distribution of messages and reports, was repealed by Acts 2001, No. 956, § 1. The section was derived from

Acts 1874, No. 6, § 17, p. 42; 1877, No. 74, § 2, p. 77; 1891, No. 154, § 3, p. 262; C. & M. Dig., §§ 9229-9231; Pope’s Dig., §§ 11915-11917; A.S.A. 1947, § 14-401.

25-18-202. Messages, reports, and other documents — Number of copies.

If any report, bill, or other document is ordered to be printed by the General Assembly and no number of copies is designated, there shall be printed at the public expense not more than two hundred forty (240) copies.

History. Acts 1874, No. 6, § 22, p. 42; C. & M. Dig., § 9239; Pope’s Dig., § 11925; A.S.A. 1947, § 14-402.

25-18-203. Messages, reports, and other documents — Covers and title pages.

In printing messages, reports, and other documents ordered to be printed by the General Assembly or by any officer, in pursuance of law or resolution of either house of the General Assembly, the contractor may attach covers and prefix a title page to each message or report of a state officer or superintendent of a state institution, but the contractor shall dispense with full title pages in reports of committees and other short documents and affix only a half-title at the top of the first page of every document.

History. Acts 1874, No. 6, § 15, p. 42; C. & M. Dig., § 9227; Pope’s Dig., § 11913; A.S.A. 1947, § 14-403.

25-18-204. Journals of legislative proceedings.

Whenever any journal of the proceedings of the House of Representatives and Senate for any regular or extraordinary session of those bodies, or either of them, is authorized to be published by any enactment of the General Assembly, publication shall be made and the published journal shall be released for distribution within six (6) months of the date of adjournment of those bodies at any session of the General Assembly.

History. Acts 1949, No. 141, § 1;
A.S.A. 1947, § 14-439.

25-18-205. Acts of General Assembly — Index — Printing — Certification.

(a) The Secretary of State shall make out true and accurate copies of all the laws, resolutions, and memorials and deliver them to the contractor for printing the acts of the General Assembly as fast as the contractor may need the copies in fulfillment of his or her contract as required by law.

(b) It shall be the duty of the Secretary of State to have prepared and furnish to the public printer a full, thorough, and complete index with subheads to the acts of the General Assembly.

(c) The Secretary of State shall pay for the copying of the acts by the public printer at the rate of ten cents (10¢) per one hundred (100) words, and for indexing and subheading the acts, a reasonable compensation to be fixed by the State Board of Public Printing not to exceed the customary price paid for such work.

(d)(1) The Acts of Arkansas shall be printed in two (2) volumes.

(2) Volume I shall contain only appropriation acts and the Revenue Stabilization Law, § 19-5-101 et seq., and amendments relative thereto and may be printed in two (2) books if the Secretary of State considers it mechanically expedient.

(3)(A) Volume II shall contain all other acts of the General Assembly and may be printed in two (2) books if the Secretary of State considers it mechanically expedient.

(B) Acts establishing the amount of salary, compensation, or allowances, and the method of payment thereof, for county officers, their deputies and other employees in their offices, deputy prosecuting attorneys, court reporters, court stenographers, and other employees of circuit courts shall be printed in Volume II.

(C) Volume II, or Book 2 of Volume II if there is one, shall also contain the acts of the extraordinary sessions of the General Assembly.

(e)(1) The date of approval by the Governor shall be stated at the end of each act, resolution, and memorial, omitting the name and style of the Governor and presiding officers of the two (2) houses.

(2) At the end of each volume of the acts, there shall be a full and complete index.

(f) The Secretary of State is authorized, if he or she determines it to be in the public interest, to publish and distribute separate acts, or a group of acts dealing with the same or related subjects, in pamphlet form.

(g) The contractor shall furnish to the Secretary of State at his or her office a proof of each form of the laws, in the course of their publication, and a reader to assist in comparing the proof with the original rolls.

(h) It is made the duty of the Secretary of State to insert his or her certificate in the pamphlet containing the printed laws, joint resolutions, memorials, and similar items that the laws thus printed are "correct copies of the original on file in his office".

History. Acts 1852, § 1, p. 43; 1874, No. 6, § 16, p. 42; 1891, No. 154, § 2, p. 262; 1893, No. 85, §§ 1, 2, p. 152; C. & M. Dig., §§ 4394, 4395, 4402, 9228; Pope's Dig., §§ 5409, 5410, 5417, 11914; Acts 1973, No. 835, §§ 3, 4; A.S.A. 1947, §§ 14-404, 14-406 — 14-408.

A.C.R.C. Notes. This section may be superseded in whole or in part by § 25-18-225.

Cross References. Initiative and referendum measures approved by people to be printed with general laws, § 7-9-120.

CASE NOTES

ANALYSIS

Approval by governor.
Mandamus.

Approval by Governor.

Where the Governor signed a bill with the intent of approving it in the manner provided by the Constitution to make it effective, it became the law and his approval could not be revoked by him or his successor, even though the bill remained in the Governor's office and the time fixed by the Constitution for acting upon the

bill had not expired. *Powell v. Hayes*, 83 Ark. 448, 104 S.W. 177 (1907).

Mandamus.

Mandamus is the proper remedy whereby one specially interested in the enforcement of a statute may compel the Secretary of State to publish an act of the General Assembly under his certificate. *Hodges v. Keel*, 108 Ark. 184, 159 S.W. 21 (1913).

Cited: *Hodges v. Lawyers' Co-op. Publishing Co.*, 111 Ark. 571, 164 S.W. 294 (1914).

25-18-206. Digests, acts, and journals — Distribution.

(a) It shall be the Secretary of State's duty to distribute the acts and journals and all laws as are by law required to be distributed among the different counties of this state.

(b) The Secretary of State shall issue his or her requisition for the acts in whatever quantities are necessary to make the distribution required by law.

(c)(1) The Secretary of State shall reserve from sale copies of the acts of the General Assembly for free distribution of one (1) copy of each, as they are published and bound, to the following officers, only upon written request therefor within thirty (30) days following the date of adjournment sine die of any legislative session:

- (A) County judges;
- (B) County clerks;
- (C) Prosecuting attorneys;

- (D) Municipal judges;
- (E) Circuit judges;
- (F) The Supreme Court Reporter;
- (G) Supreme Court Justices;
- (H) Court of Appeals Judges;
- (I) The Supreme Court Librarian;
- (J) The Attorney General;
- (K) Each state department;
- (L) Justices of the peace;
- (M) Circuit clerks;
- (N) Sheriffs;
- (O) Tax collectors;
- (P) County treasurers;
- (Q) Assessors; and
- (R) Members of the General Assembly.

(2) However, the Attorney General upon written request within the same time period shall be supplied with two (2) copies of each.

(d) Members of the General Assembly shall be entitled to one (1) copy of the journal of the preceding session and of the session of which they are members.

(e) A justice of the peace must state in his or her request that as justice of the peace he or she is actively engaged in the hearing and trial of civil or criminal cases and matters.

History. Acts 1849, § 2, p. 75; C. & M. Dig., § 4403; Acts 1921, No. 207, § 2; Pope's Dig., §§ 5418, 5434; Acts 1939, No. 162, § 1; 1951, No. 84, § 1; 1965, No. 405, § 1; 1973, No. 835, § 3; 1975, No. 831, § 3; A.S.A. 1947, §§ 14-415, 14-416, 14-416.1, 14-419; Acts 1995, No. 709, §§ 15, 16; 1995, No. 933, § 1; 1997, No. 976, §§ 16, 17.

A.C.R.C. Notes. Acts 2001, No. 390, § 18, provided: "JUSTICE OF THE PEACE ACT REQUESTS. A justice of the peace must state in his request that as justice of the peace he is actively engaged in the hearing and trial of civil or criminal cases and matters. The provisions of this section shall be in effect only from July 1, 2001 through June 30, 2003."

Acts 2001, No. 390, § 19, provided: "COPIES OF ACTS. The Secretary of State shall reserve from sale copies of the acts of the General Assembly for free distribution of one (1) copy of each, as they are published and bound, to the following officers, only upon written request therefor within thirty (30) days following the

date of adjournment sine die of any legislative session: (A) County and Probate Judges; (B) County Clerks; (C) Prosecuting Attorneys; (D) Municipal Judges; (E) Circuit Judges; (F) Chancery Judges; (G) The Supreme Court Reporter; (H) Supreme Court Justices; (I) Court of Appeals Judges; (J) The Supreme Court Librarian; (K) The Attorney General; (L) Each state department; (M) Justices of the Peace; (N) Circuit Clerks; (O) Sheriffs; (P) Tax Collectors; (Q) County Treasurers; (R) Assessors; and (S) Members of the General Assembly. (2) However, the Attorney General shall, upon written request within the same time period, be supplied with two (2) copies of each. The provisions of this section shall be in effect only from July 1, 2001 through June 30, 2003."

Acts 2001, No. 390, § 19, did not specifically amend or supersede this section.

Amendments. The 1997 amendment made no changes in (c) and (e).

Cross References. Two copies of state publications to be placed at disposal of history commission, § 13-3-108.

CASE NOTES

Cited: Armco Steel Corp. v. Ford Constr. Co., 237 Ark. 272, 372 S.W.2d 630 (1963).

25-18-207. Digests, acts, and journals — Delivery to successors — Annual settlement.

(a)(1) The officers, except the Clerk of the Supreme Court and the members of the General Assembly, receiving digests, acts, and journals shall keep them in good order and turn over the volumes to their successors in office.

(2) On failure to do so without properly accounting for the books, they shall be fined in any sum not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

(b)(1) All officers, except members of the General Assembly, receiving or having custody of books under §§ 25-18-206 — 25-18-209 and 25-18-220 shall be liable under their bonds for the full value of the books.

(2) All officers settling with any courts or other authority shall account for the books at each annual settlement in like manner as for all money and other assets of their office. Those officers shall make good to the State Treasury the value in money of all books not legally accounted for and shall exhibit the State Treasury receipt for the money in the settlement.

History. Acts 1921, No. 207, § 5; Pope's Dig., § 5437; Acts 1939, No. 162, § 2; A.S.A. 1947, §§ 14-417, 14-420.

Cross References. Records, books, and papers to be delivered to successor in office, § 21-12-401 et seq.

25-18-208. Digests, acts, and journals — Lost or destroyed books.

If any of the digests, acts, and journals shall be lost or destroyed, the officer whose books have become lost or destroyed may obtain a duplicate copy from the Secretary of State by furnishing the Secretary of State a statement under oath of the facts in the case, setting out the reason why the books are missing and that the loss is due to no fault or negligence of the officer and whether or not settlement for the books has been made under § 25-18-207.

History. Acts 1921, No. 207, § 6; Pope's Dig., § 5438; A.S.A. 1947, § 14-418.

25-18-209. Sale of digests and acts — Price.

(a)(1) The Secretary of State shall have the authority and power and is required to sell Crawford and Moses' Digest of the Statutes of Arkansas at five dollars (\$5.00) per copy and to sell the acts of the

General Assembly at the actual pro rata cost to the state for publishing them in order to recover the per volume cost to the state.

(2) This section shall not apply to acts of the General Assembly prior to 1917, which acts shall be sold at one dollar and fifty cents (\$1.50) per set, except those acts which are bound in paper, which shall sell at one dollar (\$1.00) per set.

(b) The Secretary of State shall have the authority to make reduction in price of the books when they become damaged, the reduction per set not to be less than one-half (½) the original selling price.

(c)(1) The price of Mansfield’s Digest is fixed at one dollar and fifty cents (\$1.50) per copy.

(2) The Secretary of State shall retain five hundred (500) copies for use of the state.

History. Acts 1891, No. 124, § 1, p. 1973, No. 835, § 3; A.S.A. 1947, §§ 14-212; 1921, No. 207, § 1; C. & M. Dig., 412, 14-414.
§ 4418; Pope’s Dig., §§ 5433, 5449; Acts

25-18-210. Supreme Court and Court of Appeals reports — Distribution.

(a)(1) The Administrative Office of the Courts shall furnish, at no cost, the following officials with copies of the decisions of the Supreme Court and Court of Appeals as they are published and bound:

| Officials | Number of Copies |
|--|------------------|
| Members of the Supreme Court and Court of Appeals | 2 each |
| Governor | 1 |
| General Assembly | 2 |
| Circuit judges | 1 each |
| Clerks of the circuit courts of each county | 1 each |
| Prosecuting attorneys | 1 each |
| Secretary of State | 2 |
| Attorney General | 20 |
| Supreme Court Library | 16 |
| Arkansas History Commission | 2 |
| Arkansas State Library | 2 |
| University of Arkansas at Fayetteville School of Law | 20 |
| University of Arkansas at Little Rock School of Law | 6 |

(2) The Administrative Office of the Courts shall take receipts for the volumes delivered and shall not furnish any other office or official free copies of the reports unless otherwise provided by law.

(b) All officers and officials receiving sets and volumes of the reports shall turn them over to their successors in office.

(c) In counties where there is more than one (1) county seat, each county seat shall be furnished with a set of the reports, and this section and §§ 25-18-212 — 25-18-214 shall apply to each county seat.

History. Acts 1941, No. 413, §§ 1, 2; 1971, No. 322, § 1; 1975, No. 328, § 2; 1979, No. 223, § 1; A.S.A. 1947, §§ 14-422, 14-423; Acts 1989, No. 488, § 1; 1989, No. 499, § 1; 1991, No. 549, § 1.

A.C.R.C. Notes. The official state publication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

25-18-211. Supreme Court and Court of Appeals reports — Additional set for Supreme Court Justices and Court of Appeals Judges.

(a)(1) The Clerk of the Supreme Court is authorized to purchase, when directed by the Supreme Court or Court of Appeals, the printed reports of the court for the use of each of the justices or judges in chambers and to pay for the set out of the funds of that court.

(2) Reports so purchased shall be the property of the State of Arkansas, and the justices or judges shall keep the reports in good order and turn them over to their respective successors in office.

(b) The purchase of these sets of reports shall be in addition to the reports furnished by the Administrative Office of the Courts.

History. Acts 1917, No. 129, § 1, p. 683; 1989, No. 488, § 2; 1991, No. 549, § 2.

lication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

A.C.R.C. Notes. The official state pub-

25-18-212. Supreme Court and Court of Appeals reports — Duties of clerks.

(a)(1) The several clerks of the circuit courts of the State of Arkansas shall be furnished with one (1) full set of the reports, not including the first forty-seven (47) volumes of the decisions of the Supreme Court, and shall keep them in good order.

(2) The county judge of each county shall furnish a room or other suitable space for the reports convenient for the clerk, county officials, and court at or near the courtroom or in the clerk's office.

(b)(1) Each clerk shall be in full and complete custody of the reports and shall turn them over to his or her successor in office.

(2) Upon failure to do so, he or she shall be fined in any sum not less than five (5) times the worth of the volumes which he or she has failed to turn over.

History. Acts 1941, No. 413, § 1; 1971, No. 322, § 1; 1975, No. 328, § 2; A.S.A. 1947, § 14-422; Acts 1991, No. 549, § 3.

lication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

A.C.R.C. Notes. The official state pub-

25-18-213. Supreme Court and Court of Appeals reports — Annual check of county libraries and clerks' offices.

(a) It shall be the duty of the director of the Department of Finance and Administration to make a check of the county libraries once a year and report his or her findings to the Administrative Office of the Courts.

(b)(1) It shall be the duty of the director to check the reports of each outgoing clerk.

(2) The director's findings shall be binding and shall be filed with the Administrative Office of the Courts.

(c) When a county library is set up, the director shall have placed on each volume the following statement: "This book is the property of the State of Arkansas."

History. Acts 1941, No. 413, § 1; 1971, No. 322, § 1; 1975, No. 328, § 2; A.S.A. 1947, § 14-422; Acts 1989, No. 488, § 3; 1991, No. 549, § 4.

A.C.R.C. Notes. The official state pub-

lication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

25-18-214. Supreme Court and Court of Appeals reports — Replacement of missing books by the clerk.

The clerk and his or her bondsmen shall be personally liable and responsible for the safekeeping of the reports, and no volume shall be loaned or removed. Out of his or her personal funds, the clerk shall replace any volumes found missing by the Director of the Department of Finance and Administration so that at all times one (1) full set, not including the first forty-seven (47) volumes of the reports of the decisions of the Supreme Court, shall be available in each county in the State of Arkansas for the general use of the courts, county officials, and attorneys.

History. Acts 1941, No. 413, § 1; 1971, No. 322, § 1; 1975, No. 328, § 2; A.S.A. 1947, § 14-422; Acts 1991, No. 549, § 5.

A.C.R.C. Notes. The official state pub-

lication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

25-18-215. Supreme Court and Court of Appeals reports — Replacement of destroyed volumes.

If the reports of the Supreme Court or Court of Appeals shall be destroyed in the county library in any county in this state by causes not within the control of the clerk, the Director of the Department of Finance and Administration shall so ascertain and shall certify to the Administrative Office of the Courts the need for a new set of the reports, or replacements for the missing volumes, not including the first forty-seven (47) volumes.

History. Acts 1941, No. 413, § 4; A.S.A. 1947, § 14-424; Acts 1989, No. 488, § 4; 1991, No. 549, § 6.

A.C.R.C. Notes. The official state publication for decisions of the Supreme Court is *Arkansas Reports*. The official

state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

25-18-216. Supreme Court and Court of Appeals reports — Number of copies reserved by Administrative Office of the Courts.

The whole number of reports in the office of the Administrative Office of the Courts shall not be reduced below the number of three (3) copies of each volume.

History. Acts 1868, No. 33, § 3, p. 110; 1873, No. 91, § 3, p. 225; C. & M. Dig., § 4417; Pope's Dig., § 5432; A.S.A. 1947, § 14-425; Acts 1989, No. 488, § 5; 1991, No. 549, § 7.

A.C.R.C. Notes. The official state publication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

25-18-217. Supreme Court and Court of Appeals reports — Expense of distribution.

The Administrative Office of the Courts shall be authorized to draw upon the contingent fund of that office for the payment of the necessary expense incurred by transmitting the reports to the respective officers entitled to receive them.

History. Acts 1853, § 3, p. 202; C. & M. Dig., § 4409; Pope's Dig., § 5424; A.S.A. 1947, § 14-426; Acts 1989, No. 488, § 6.

lication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

A.C.R.C. Notes. The official state pub-

25-18-218. Supreme Court and Court of Appeals reports — Size — Sale price.

(a) The reports of the Supreme Court and the Court of Appeals shall each be printed in continuous paging until there shall be sufficient matter to form a volume, the text block to be no thicker than two and one-half inches (2½").

(b) The Administrative Office of the Courts shall sell each volume of the reports for an amount equal to the cost of the volume plus postage costs.

History. Acts 1925, No. 357, § 2; Pope's Dig., §§ 1616, 13329; Acts 1955, No. 429, § 3; 1975, No. 328, § 1; A.S.A. 1947, §§ 14-421, 14-421.1; Acts 1987, No. 644, § 1; 1989, No. 488, § 7; 1995, No. 549, § 1.

A.C.R.C. Notes. The official state publication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

25-18-219. [Repealed.]

Publisher's Notes. This section, concerning the distribution of United States statutes, was repealed by Acts 2001, No.

956, § 2. The section was derived from Acts 1868, No. 33, §§ 4, 5, p. 110; A.S.A. 1947, §§ 14-437, 14-438.

25-18-220. Exchange of books with federal, state, and foreign entities.

(a)(1) The Administrative Office of the Courts is authorized to exchange with other states and countries that extend to this state similar courtesies the reports of the Supreme Court, and it shall furnish, upon demand, to the federal courts of Arkansas the Supreme Court reports beginning with Volume 126.

(2)(A) The Secretary of State is authorized to exchange with other states and countries the acts of the General Assembly of the State of Arkansas, when bound and ready for distribution, and digests of the statutes, when revised and published, that extend to this state similar courtesies.

(B) The Secretary of State is also to furnish, upon demand, to the federal courts of Arkansas the current digest of the statutes of Arkansas, and the acts of the General Assembly.

(b)(1)(A) The Secretary of State is further authorized to distribute to the Library of Congress the acts of the General Assembly, digests of the statutes after they have been published, and all other publications of any sort by the State of Arkansas or any department or agency thereof.

(B) The Administrative Office of the Courts is authorized to furnish reports of the Supreme Court to the Library of Congress.

(2) The Secretary of State shall not distribute to the Library of Congress more than eight (8) copies of the acts, digests, and other publications.

(3) In no event shall any number be so distributed to the Library of Congress until that library shall agree to furnish to the State of Arkansas, for the use of the Supreme Court Library, a like number of the copies of all similar publications made by the United States Government.

History. Acts 1921, No. 207, § 3; 1937, No. 209, § 1; Pope's Dig., § 5435; A.S.A. 1947, § 14-427; Acts 1989, No. 488, § 8; 1991, No. 549, § 8.

A.C.R.C. Notes. The official state publication for decisions of the Supreme

Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

Cross References. Delivery of surplus copies of statutes of any state to Supreme Court library, § 16-11-110.

25-18-221. Distribution of reports and proceedings of General Assembly to Law Library Association, Inc., Shelby County, Tennessee.

(a) The Administrative Office of the Courts is directed to deliver to the Law Library Association, Inc., of Shelby County, Tennessee, as a donation and without charge, as they are published, all volumes of the reports of the Supreme Court.

(b) The Secretary of State is directed to deliver to the Law Library Association, Inc., of Shelby County, Tennessee, as a donation and

without charge, as they are published, all volumes of the proceedings of the General Assembly of this state.

History. Acts 1937, No. 97, § 2; Pope's Dig., § 5440; A.S.A. 1947, § 14-434; Acts 1989, No. 488, § 9.

A.C.R.C. Notes. The official state pub-

lication for decisions of the Supreme Court is *Arkansas Reports*. The official state publication for decisions of the Court of Appeals is *Arkansas Appellate Reports*.

25-18-222. References to deaf people.

The archaic terms "dumb" and "deaf-mute" that formerly related to deaf people shall be struck from all future state publications that in any way refer to the deaf.

History. Acts 1979, No. 664, § 3; A.S.A. 1947, § 5-715.3.

25-18-223. Book report of Secretary of State.

(a)(1) The Secretary of State is directed to cause to be compiled, edited, and published a bound book report of the Secretary of State for the period ending December 31, 1997, and containing the same information and subject matter as the earlier biennial reports of the Secretary of State and other data, both historical and contemporary, that in the opinion of the Secretary of State would be of interest to all citizens of Arkansas.

(2) The book shall be printed under the proper contract for state printing.

(b) Upon receipt of the volumes of the historical bound book report, the Secretary of State shall distribute them in the following manner:

(1) One (1) copy to each member of the General Assembly;

(2) Two (2) copies to each city, county, regional, public school, parochial school, and institution of higher learning library in the State of Arkansas;

(3) One (1) copy to each state constitutional officer;

(4) One (1) copy to each circuit judge and prosecuting attorney;

(5) One (1) copy to each elected or appointive county official, including the county sheriff, county clerk, collector, circuit clerk, coroner, surveyor, or justice of the peace, upon written request from that county official; and

(6) One (1) copy to each county judge.

(c)(1) The remaining volumes shall be sold by the Secretary of State at the price of fifteen dollars (\$15.00) each plus postage.

(2) The proceeds of the sales are to be deposited as special revenues to the credit of the fund from which the Secretary of State's office draws its primary support.

History. Acts 1985, No. 643, §§ 1, 2; A.S.A. 1947, § 12-406n; Acts 1987, No. 1063, § 2; 1997, No. 365, § 1.

Amendments. The 1997 amendment

substituted "December 31, 1997" for "December 31, 1985" in (a)(1); and deleted "by offset process" following "printed" in (a)(2).

25-18-224. Distribution of quasijudicial opinions and orders.

(a)(1)(A) Any quasijudicial board, commission, or agency of the state shall, on request, provide copies of its opinions and orders to any publication or reporting service which routinely reports on its opinions and orders.

(B) If such a board, commission, or agency affirms and adopts as its own the opinion or order of a hearing officer, administrative law judge, or referee, a copy of the opinion or order affirmed shall be attached to the order or opinion of the board, commission, or agency.

(2) Such quasijudicial board, commission, or agency may make a charge for providing such opinions and orders, but the charge shall be limited to the actual cost of reproduction and shall be approved by the Director of the Department of Finance and Administration.

(b) Administrative decisions of the Office of Hearings and Appeals of the Department of Finance and Administration and opinions of the Department of Finance and Administration which contain information which is confidential pursuant to the Arkansas Tax Procedure Act, § 26-18-101 et seq., shall be exempt from the disclosure provisions of subsection (a) of this section.

History. Acts 1993, No. 563, §§ 1, 2.

25-18-225. Publishing and distribution of Arkansas acts.

(a) The Secretary of State shall permanently maintain the original and one (1) copy of all:

(1) Acts of the General Assembly;

(2) Memorials;

(3) Resolutions;

(4) Proposed constitutional amendments, both initiated and referred; and

(5) Proposed initiated acts.

(b) The Secretary of State shall arrange for the printing and distribution of these documents as provided in this section.

(c)(1) The Secretary of State shall:

(A) Make true and accurate reproductions, as technology permits, of the original documents of:

(i) Acts;

(ii) Initiated acts;

(iii) Resolutions;

(iv) Memorials; and

(v) Constitutional amendments, both initiated and referred; and

(B) Deliver them to the contractor for printing as the Acts of Arkansas.

(2) General acts and appropriation acts shall be numbered consecutively as they are approved by the appropriate body.

(3) General acts and appropriation acts shall be printed consecutively.

(d)(1) It shall be the duty of the Secretary of State to have prepared a full, thorough, and complete index.

(2) A general index shall cover:

- (A) General acts;
- (B) Appropriation acts;
- (C) Initiated acts;
- (D) Special and local acts;
- (E) Memorials; and
- (F) Resolutions.

(e) The Secretary of State shall insert his or her certificate in the pamphlet containing the printed laws, resolutions, memorials, and similar items that the laws thus printed are "correct copies of the original on file in the Office of the Secretary of State".

(f) The Secretary of State is authorized, if that office determines it to be in the public interest, to publish and distribute separate acts, or a group of acts dealing with the same or related subjects, in pamphlet or book form.

(g) The Acts of Arkansas shall be published containing the acts of the General Assembly exactly as enacted by the General Assembly. Acts passed by the General Assembly in markup format shall be published in markup format. No correction, change, renumbering, substitution, redesignation, or rearrangement shall be made to the text of the acts published in the Acts of Arkansas.

History. Acts 1995, No. 879, §§ 1-6; 1999, No. 751, § 5.

Amendments. The 1999 amendment added (g).

SUBCHAPTER 3 — DEPOSITORIES

SECTION.

25-18-301. Designation of official state depository.

25-18-302. [Repealed.]

25-18-303. [Repealed.]

25-18-304. [Repealed.]

25-18-305. Federal publications.

25-18-306. Selective and partial depositories.

SECTION.

25-18-307. Procedure to obtain state and local publications.

25-18-308. State and local publications furnished to Arkansas State Library.

Cross References. Depositories and clearinghouses, §§ 13-2-210 — 13-2-214.

State and local publications defined, § 13-2-201.

Preambles. Acts 1947, No. 170 contained a preamble which read: "Whereas, it is desirable that there should be a comprehensive collection of public documents for teachers, students, and research workers in the state; and

"Whereas, the General Library of the University of Arkansas is a full depository

for the documents of the United States government; and

"Whereas, this library is seriously handicapped in acquiring Arkansas state, municipal and county documents, and the documents of other states for lack of suitable documents to offer in return;

"Now, therefore..."

Effective Dates. Acts 1905, No. 80, § 4: effective on passage.

Acts 1971, No. 163, § 6: Feb. 26, 1971. Emergency clause provided: "It is hereby

found and determined by the General Assembly that Act 170 of 1947, as amended, requires all state agencies, and all cities and counties, to file copies of various documents and publications with the General Library of the University of Arkansas in Fayetteville; and it is further determined by the General Assembly that in order to make documents of the state, cities, and counties more readily accessible to the public at convenient locations throughout the state, and for use by students and the public at state-supported institutions of higher learning, it is essential that all state, city, and county agencies be required to furnish copies of printed publications to the libraries of the various state-supported institutions of higher learning; that only by the immediate passage of this act may prompt implementation of the provisions of this act be carried out. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 1224, § 12: July 1, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1993, No. 1224, § 6: repeal effective by its own terms on July 1, 1994.

25-18-301. Designation of official state depository.

The Mullins Library of the University of Arkansas at Fayetteville shall be designated as an official state depository of all public documents published by or under the authority of the state or any division thereof.

History. Acts 1947, No. 170, § 1; A.S.A. 1947, § 14-428.

Publisher’s Notes. Acts 1947, No. 170, § 5, provided that the act was cumulative to and did not repeal §§ 13-3-101 — 13-3-108.

25-18-302. [Repealed.]

Publisher’s Notes. This section, concerning state publications, was repealed by Acts 1993, No. 1224, § 6. The section

was derived from Acts 1947, No. 170, § 2; 1995, No. 379, § 1; A.S.A. § 14-429.

25-18-303. [Repealed.]

Publisher’s Notes. This section, concerning payment for printing, was repealed by Acts 1993, No. 1224, § 6. The

section was derived from Acts 1947, No. 170, § 3; A.S.A. 1947, § 14-430.

25-18-304. [Repealed.]

Publisher's Notes. This section, concerning county and municipal publications, was repealed by Acts 1993, No. 1224, § 6. The section was derived from Acts 1947, No. 170, § 4; A.S.A. 1947, § 14-431.

25-18-305. Federal publications.

The Secretary of State is further directed to send to the Mullins Library of the University of Arkansas at Fayetteville a copy of all publications of the federal government, where there are duplicate copies in the library of the Secretary of State. This shall include the *Congressional Globe*, *Congressional Record*, executive documents, departmental and commercial reports, and any federal documents.

History. Acts 1905, No. 80, § 3, p. 201; C. & M. Dig., § 4405; Pope's Dig., § 5420; A.S.A. 1947, § 14-433.

25-18-306. Selective and partial depositories.

(a) In addition to the Mullins Library of the University of Arkansas at Fayetteville, which was designated as a depository of all state, city, and county documents under the provisions of § 25-18-301, the library of each of the state-supported institutions of higher learning in this state is designated as a selective or partial depository of state, city, and county documents.

(b) Each department or division of the state, city, and county which is directed to furnish copies of publications to the Mullins Library is authorized and directed to send to the Arkansas State Library a list of all publications published by the department or division during the preceding quarter.

(c) The Arkansas State Library shall prepare a checklist of all publications published by all counties, cities, departments, and agencies of this state and shall furnish quarterly a copy of the checklist to each of the institutions of higher learning in this state.

History. Acts 1971, No. 163, § 1; A.S.A. 1947, § 14-440.

25-18-307. Procedure to obtain state and local publications.

(a) Any institution of higher learning desiring to obtain copies of any publication contained in the checklist shall order the number of copies, not to exceed three (3) copies of any one (1) report or publication, desired from the Arkansas State Library.

(b) The Arkansas State Library shall collect the orders and shall periodically obtain from state agencies and departments, and from the various cities and counties, a sufficient number of copies and documents and publications to fill the orders.

(c) The Arkansas State Library shall furnish all institutions of higher learning copies of any documents and publications so ordered without charge or cost.

History. Acts 1971, No. 163, § 2;
A.S.A. 1947, § 14-441.

25-18-308. State and local publications furnished to Arkansas State Library.

Each department or division of the state, a city, or a county under whose jurisdiction any printed or processed book, pamphlet, report, or other publication is issued at the expense of a municipal corporation or of a county, or of a county and a city, or of the state is directed to furnish without charge to the Arkansas State Library the number of copies of such publications as the library may order.

History. Acts 1971, No. 163, § 3;
A.S.A. 1947, § 14-442. **Cross References.** Annual and biennial reports, § 21-7-402.

SUBCHAPTER 4 — SETTLEMENT AGREEMENTS

SECTION.
25-18-401. Disclosure required.
25-18-402. Exemptions.

SECTION.
25-18-403. Penalty.

Effective Dates. Acts 1991, No. 781, § 7: Mar. 26, 1991. Emergency clause provided: "It is the public policy of this State that public business be performed in an open and public manner so that electors are advised of the performance of public officials and of the decisions reached in public activity. Unless specifically authorized by law, no public official or employee

is empowered to promise confidentiality regarding agreements that are in the public domain. To ensure that this public policy is fully carried out, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in full force from and after its passage and approval."

25-18-401. Disclosure required.

No public official or employee acting in behalf of a governmental agency or another agency wholly or partially supported by or expending public funds shall:

- (1) Agree or authorize another to agree that all or part of a litigation settlement agreement to which the agency is a party shall be kept secret, sealed, or otherwise withheld from public disclosure; or
- (2) Seek a court order denying public access to any court record or other document containing the terms of a settlement agreement resolving a claim by or against the agency.

History. Acts 1991, No. 781, § 1; 1997, No. 873, § 2. **Amendments.** The 1997 amendment rewrote the introductory paragraph.

25-18-402. Exemptions.

Sections 25-18-401 — 25-18-403 do not prohibit the Director of the Department of Finance and Administration and his or her authorized agents from entering into agreements with taxpayers pursuant to § 26-18-705 which shall not be subject to public disclosure if the subject matter of the agreement is protected from public disclosure by the Freedom of Information Act of 1967, § 25-19-101 et seq., or § 26-18-303, or other state law.

History. Acts 1991, No. 781, § 2.

25-18-403. Penalty.

Any person who violates the provisions of this subchapter shall be deemed guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500).

History. Acts 1991, No. 781, § 3.

SUBCHAPTER 5 — CONTRACTS

SECTION.

25-18-501. State agency contracts.

A.C.R.C. Notes. References to “this chapter” in subchapter 1 may not apply to this subchapter which was enacted subsequently.

25-18-501. State agency contracts.

When any state agency enters into a contract with any entity, the contract shall be deemed a public record in accordance with the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 1997, No. 1083, § 1.

CHAPTER 19

FREEDOM OF INFORMATION ACT

SECTION.

- 25-19-101. Title.
- 25-19-102. Legislative intent.
- 25-19-103. Definitions.
- 25-19-104. Penalty.
- 25-19-105. Examination and copying of public records.
- 25-19-106. Open public meetings.

SECTION.

- 25-19-107. Appeal from denial of rights — Attorney’s fees.
- 25-19-108. Information for public guidance.
- 25-19-109. Special requests for electronic information.

Cross References. Records of, and testimony before, committees reviewing and evaluating quality of medical or hospital care, § 16-46-105.

Effective Dates. Acts 1967, No. 93, § 10: Feb. 14, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that the proper functioning of a democratic society is dependent upon the public being informed at all times with respect to the operations of government, and public officials shall at all times be held accountable for their public actions and conduct; that this state does not now have a law requiring that all public records be open to the public, except in those instances where otherwise specifically provided by law; that many agencies are now holding executive or closed sessions which is contrary to the spirit of the public business being transacted in open public meetings, and that the immediate passage of this act is necessary to correct said situations and to secure to the public their proper right of access to public records and meetings of public agencies, boards, and commissions. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1975 (Extended Sess., 1976), No. 1201, § 3: Feb 11, 1976. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of Section 5 of Act 93 of 1967 relating to executive sessions of public bodies, as this Section is now written and has been interpreted by certain courts in the State, is very confusing and does not serve as a reliable guideline to public bodies regarding executive sessions; that it is essential to the proper administration of government and public education that the law relating to executive sessions and those who may be present at executive sessions be clarified in order to permit administrative and supervisory personnel to be present at an executive session when personnel matters are being considered; that it is essential to secure and maintain the essential legal rights of various public bodies that such bodies be permitted to hold executive sessions with their attorneys when such body or bodies are parties to litigation pending in the courts; that

the law should be clarified further to specifically authorize public school boards to hold executive sessions for the purpose of considering matters involving student discipline if the student or the parent involved so requests; that this Act is designed to clarify the law with respect to executive sessions in the areas described above and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 652, § 4: Mar. 23, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the laws of this state are unclear as to the kinds of records which are subject to inspection and copying by citizens and that a clarification will promote the public policy of the State of Arkansas that public business is to be performed in an open and public manner. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect after its passage and approval."

Acts 1981, No. 608, § 3: July 1, 1981.

Acts 1985, No. 843, § 3: Apr. 4, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of the Freedom of Information Act require notice of emergency on special meetings of school boards to be given only to those newspapers located in the county in which the meeting is to be held; that in some instances the principal newspaper serving the patrons of the district is printed outside the county in which the district is located; that it is essential to the effective and efficient administration of each school district that notice of such meetings be given to the principal newspaper serving the patrons of the district when the newspaper requests such notice; that this Act requires such notice and should be given effect at the earliest practical date. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 49, § 5: Feb. 16, 1987.

Emergency clause provided: "It is hereby found and determined by the General Assembly that considerable confusion has existed regarding public access to personnel records and employee evaluation records under Act 93 of 1967, as amended; that Act 17 of 1986, Second Extraordinary Session, which exempts employee evaluation records from disclosure, by its own terms ceases to be effective on April 1, 1987; that, as a general matter, the confidentiality of personnel records and employee evaluation records is in the public interest to ensure the privacy of employees and the efficacy of the employee evaluation process; that such records should, however, be open to public inspection in certain circumstances; that guidance from the Attorney General and additional enforcement mechanisms, including attorney fees, litigation costs, and criminal penalties, are necessary to implement the provisions of this Act regarding such records; and that this Act is designed to clarify the law with respect to such records and should be given effect immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 1001, § 3: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1201 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (3rd Ex. Sess.), No. 8, § 4:

Nov. 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that present law is unclear concerning the confidentiality of the records obtained by the Arkansas Industrial Development Commission in the recruitment of industry to this State, and the disclosure of such information under the provisions of the Freedom of Information Act would seriously jeopardize other recruitment efforts of the Commission, since this information is given to the Commission under an agreement of confidentiality. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1653, § 5: Apr. 16, 2001. Emergency clause provided: "It is found and determined by the General Assembly that confusion exists as to the status of electronic records under the Freedom of Information Act of 1967, as amended; that the right to obtain copies of public records at a reasonable cost is uncertain; that access to certain electronic records may adversely affect the security of computer systems and networks maintained by public entities; and that access to certain student records maintained in electronic form by school districts, institutions of higher education, and state agencies may jeopardize federal funding. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

ALR. Exemption of preliminary drafts or notes provided by or for state or local governmental agency from disclosure of inspection. 26 ALR 4th 639.

Exemption of personal matters from

disclosure by invasion of privacy exemption under state acts. 26 ALR 4th 666.

Patient's right to disclosure of his or her own medical records under state Freedom of Information Act. 26 ALR 4th 701.

"Records" of agency which must be made available under state Freedom of Information Act. 27 ALR 4th 680.

Legitimate research justifying inspection of state or local public records not open to inspection by general public. 40 ALR 4th 333.

State Freedom of Information Act requests: right to receive information in particular medium or format. 86 ALR 4th 786.

Attorney-client exception under state law making proceedings by public bodies open to public. 34 ALR 5th 591.

Pending or prospective litigation exception under state law making proceedings by public bodies open to the public. 35 ALR 5th 113.

Am. Jur. 66 Am. Jur. 2d, Records, § 12 et seq.

Ark. L. Notes. Watkins, Recent Developments under the Arkansas Freedom of Information Act, 1987 Ark. L. Notes 59.

Watkins, Using the Freedom of Information Act as a Discovery Device, 1994 Ark. L. Notes 59.

Ark. L. Rev. Watkins, Access to Public Records under the Arkansas Freedom of Information Act, 37 Ark. L. Rev. 741.

Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.

Rehab. Hospital Services Corp. v. Delta-Hills Health Systems Agency, Inc.: Invalidation — An Optional, Judicially Recognized Remedy to the Arkansas Freedom of Information Act, 40 Ark. L. Rev. 899.

Watkins, The Arkansas Freedom of In-

formation Act: Time for a Change, 44 Ark. L. Rev. 535.

Note, Young v. Rice: The Personnel Records Exemption to the Arkansas Freedom of Information Act, 46 Ark. L. Rev. 759.

Note, To Seal or Not to Seal? That is Still the Question: Arkansas Best Corp. v. General Electric Capital Corp., 49 Ark. L. Rev. 325.

UALR L.J. Survey of Arkansas Law, Public Law, 1 UALR L. J. 230.

Note: The Arkansas Freedom of Information Act: Executive Session Subject Matter, 1 UALR L. J. 381.

Note, Constitutional Law—The Right of Nondisclosure—The Unintended Victim of the Markle Murder, 12 UALR L.J. 423.

Note, Public Law — Arkansas Freedom of Information Act — Working Papers and Litigation Files of Attorneys Hired by Public Entities Are Subject to Disclosure. City of Fayetteville v. Edmark, 304 Ark. 179, 801 S.W.2d 275 (1990).

Fifteenth Annual Survey of Arkansas Law, 15 UALR L.J. 427.

Note, Public Law — Freedom of Information Act — "Working Papers" Exemption Applies not Only to Officeholder Personally But to Staff Members and Private Consultants as Well. Bryant v. Mars, 309 Ark. 480, 830 S.W.2d 869 (1992), 16 UALR L.J. 313.

Brooks, Adventures in Cyber-Space: Computer Technology and the Arkansas Freedom of Information Act, 17 UALR L.J. 417.

CASE NOTES

ANALYSIS

Constitutionality.

Construction.

Applicability.

Attorney-client privilege.

Condemnation.

Delegation of duties.

Federal law.

Jurisdiction.

Constitutionality.

State Highway and Transportation Department did not have standing to contest issue of constitutionality of Freedom of Information Act. Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc., 294 Ark. 490, 744 S.W.2d 711 (1988).

The release of information pursuant to the Freedom of Information Act does not constitute a "taking" in the constitutional sense. McCambridge v. City of Little Rock, 298 Ark. 219, 766 S.W.2d 909 (1989).

Construction.

The penal nature of § 25-19-104 did not make the entire chapter penal so as to require it to be strictly construed. Laman v. McCord, 245 Ark. 401, 432 S.W.2d 753 (1968).

This chapter is to be liberally interpreted. Commercial Printing Co. v. Rush, 261 Ark. 468, 549 S.W.2d 790 (1977).

This act should be liberally construed in order to accomplish the act's laudable pur-

poses. Sebastian County Chapter of Am. Red Cross v. Weatherford, 311 Ark. 656, 846 S.W.2d 641 (1993).

The court's policy regarding this chapter has been enunciated clearly in our case law — it will interpret the chapter liberally to accomplish the purpose of promoting free access to public information. Johnson v. Stodola, 316 Ark. 423, 872 S.W.2d 374 (1994).

Applicability.

For a record to be subject to the Freedom of Information Act and available to the public, it must be possessed by an entity covered by the act, fall within the act's definition of public record, and not be exempted by the act or other statutes. Legislative Joint Auditing Comm. v. Woosley, 291 Ark. 89, 722 S.W.2d 581 (1987).

There is no constitutional right of general public access to the disciplinary or investigatory records of a post-secondary educational institution, and any right to such records must arise by virtue of federal or state statutory or common law. Norwood v. Slammons, 788 F. Supp. 1020 (W.D. Ark. 1991).

Attorney-Client Privilege.

Neither Evid. Rule 502 nor ARCP 26(b)(3) creates an exception to the Freedom of Information Act based on attorney-client privilege. Scott v. Smith, 292 Ark. 174, 728 S.W.2d 515 (1987).

Condemnation.

Order directing disclosure of information related to condemnation was not contrary to the intent of this chapter. Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc., 294 Ark. 490, 744 S.W.2d 711 (1988).

Delegation of Duties.

The requirements of this chapter cannot be circumvented by delegation of regular duties to one specially retained to perform the same task as the regular employee or official. This would be contrary to the requirements and intent of this chapter. City of Fayetteville v. Edmark, 304 Ark. 179, 801 S.W.2d 275 (1990).

Federal Law.

A federal law which does not prohibit disclosure, but only provides for the loss of funds if the information is disclosed, does not supersede the Arkansas Freedom of Information Act (FOIA). Troutt Bros. v. Emission, 311 Ark. 27, 841 S.W.2d 604 (1992).

Jurisdiction.

Where plaintiff who seeks to have records released under this chapter anticipates that defendants will raise the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g as a defense, plaintiff's claim may not be removed to federal court on the basis of a federal defense. Norwood v. Slammons, 788 F. Supp. 1020 (W.D. Ark. 1991).

Cited: McClain v. Anderson, 246 Ark. 638, 439 S.W.2d 296 (1969); Arkansas Gazette Co. v. Pickens, 258 Ark. 69, 522 S.W.2d 350 (1975); Kreutzer v. Clark, 271 Ark. 243, 607 S.W.2d 670 (1980); Baxter County Newspapers, Inc. v. Medical Staff of Baxter Gen. Hosp., 273 Ark. 511, 622 S.W.2d 495 (1981); Norcross v. Sneed, 573 F. Supp. 533 (W.D. Ark. 1983); Goetz v. Haygood, 602 F. Supp. 1352 (E.D. Ark. 1985); Gannett River States Publishing Co. v. Arkansas Judicial Discipline & Disability Comm'n, 304 Ark. 244, 801 S.W.2d 292 (1990); Furman v. Holloway, 312 Ark. 378, 849 S.W.2d 520 (1993).

25-19-101. Title.

This chapter shall be known and cited as the "Freedom of Information Act of 1967".

History. Acts 1967, No. 93, § 1; A.S.A. 1947, § 12-2801.

Cross References. Confidentiality of records, § 9-27-352.

RESEARCH REFERENCES

Ark. L. Notes. Watkins, Adventures in FOIA Land, 1999 Ark. L. Notes 111.

CASE NOTES

Cited: Cooper, Inc. v. Farm Bureau Mut. Ins. Co., 289 Ark. 218, 711 S.W.2d 155 (1986); Morton v. City of Little Rock, 728 F. Supp. 543 (E.D. Ark. 1989); Depoyster v. Cole, 298 Ark. 203, 766 S.W.2d 606 (1989); Martin v. Musteen, 303 Ark. 656, 799 S.W.2d 540 (1990); Byrne v. Eagle, 319 Ark. 587, 892 S.W.2d 487 (1995); Saline Mem. Hosp. v. Berry, 321 Ark. 588, 906 S.W.2d 297 (1995); Arkansas Dep't of Health v. Westark Christian Action Council, 322 Ark. 440, 910 S.W.2d 199 (1995); Moore v. State, 324 Ark. 453, 921 S.W.2d 606 (1996).

25-19-102. Legislative intent.

It is vital in a democratic society that public business be performed in an open and public manner so that the electors shall be advised of the performance of public officials and of the decisions that are reached in public activity and in making public policy. Toward this end, this chapter is adopted, making it possible for them or their representatives to learn and to report fully the activities of their public officials.

History. Acts 1967, No. 93, § 2; A.S.A. 1947, § 12-2802.

CASE NOTES

ANALYSIS

Construction.
Delegation of duties.

Construction.

The objectives of this chapter are such that whenever the legislature fails to specify that any records in the public domain are to be excluded from inspection, or is less than clear in its intentions, then privacy must yield to openness and secrecy to the public's right to know the status of its own affairs; therefore, the burden of confidentiality rests on the legislation itself, and if the intention is doubtful, openness is the result. Ragland v. Yeargan, 288 Ark. 81, 702 S.W.2d 23 (1986).

Delegation of Duties.

The requirements of this chapter cannot

be circumvented by delegation of regular duties to one specially retained to perform the same task as the regular employee or official. This would be contrary to the requirements and intent of this chapter. City of Fayetteville v. Edmark, 304 Ark. 179, 801 S.W.2d 275 (1990).

Cited: Arkansas State Police Comm'n v. Davidson, 253 Ark. 1090, 490 S.W.2d 788 (1973); Arkansas Gazette Co. v. Pickens, 258 Ark. 69, 522 S.W.2d 350 (1975); Mayor of El Dorado v. El Dorado Broadcasting Co., 260 Ark. 821, 544 S.W.2d 206 (1976); Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc., 294 Ark. 490, 744 S.W.2d 711 (1988); Depoyster v. Cole, 298 Ark. 203, 766 S.W.2d 606 (1989).

25-19-103. Definitions.

As used in this chapter, unless the context otherwise requires:
(1)(A) "Custodian", with respect to any public record, means the person having administrative control of that record.

(B) "Custodian" does not mean a person who holds public records solely for the purposes of storage, safekeeping, or data processing for others;

(2) "Format" means the organization, arrangement, and form of electronic information for use, viewing, or storage;

(3) "Medium" means the physical form or material on which records and information may be stored or represented and may include, but is not limited to, paper, microfilm, microform, computer disks and diskettes, optical disks, and magnetic tapes;

(4) "Public meetings" means the meetings of any bureau, commission, or agency of the state, or any political subdivision of the state, including municipalities and counties, boards of education, and all other boards, bureaus, commissions, or organizations in the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds; and

(5)(A) "Public records" means writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium, required by law to be kept or otherwise kept, and which constitute a record of the performance or lack of performance of official functions which are or should be carried out by a public official or employee, a governmental agency, or any other agency wholly or partially supported by public funds or expending public funds. All records maintained in public offices or by public employees within the scope of their employment shall be presumed to be public records.

(B) "Public records" does not mean software acquired by purchase, lease, or license.

History. Acts 1967, No. 93, § 3; 1977, No. 652, § 1; 1981, No. 608, § 1; 1985, No. 468, § 1; A.S.A. 1947, § 12-2803; Acts 2001, No. 1653, § 1.

Amendments. The 2001 amendment added (1) through (3); redesignated

former (2) as present (4); redesignated former (1) as present (5)(A), inserted "electronic or computer-based information," and substituted "medium" for "form"; added (5)(B); and made related changes.

CASE NOTES

ANALYSIS

Public funds.
Public meetings.
Public records.

Public Funds.

A private, nonprofit association of colleges and secondary schools which was composed of public servants and accepted public moneys was subject to this chapter. *North Cent. Ass'n of Colleges & Sch. v. Troutt Bros.*, 261 Ark. 378, 548 S.W.2d 825 (1977).

A ground lease between a city and the American Red Cross, wherein the city charged the Red Cross a one-dollar-per-

year lease payment, did not qualify as support by public funds within the meaning of subdivision (1). *Sebastian County Chapter of Am. Red Cross v. Weatherford*, 311 Ark. 656, 846 S.W.2d 641 (1993).

The plain language of subdivision (1) confirms that the General Assembly intended that direct public funding be required; had the General Assembly intended to extend this act to private organizations that receive any form of government assistance or subsidy, no matter how indirect, it would not have used the words "supported ... by public funds" to describe the nature of support necessary to trigger this act. *Sebastian County*

Chapter of Am. Red Cross v. Weatherford, 311 Ark. 656, 846 S.W.2d 641 (1993).

Refusal to read indirect government benefits or subsidies into the term "public funds" is not at odds with a liberal construction of this act. Sebastian County Chapter of Am. Red Cross v. Weatherford, 311 Ark. 656, 846 S.W.2d 641 (1993).

The term "public funds" should be given its plain and ordinary meaning which is best evidenced by Black's Law Dictionary and the definition "moneys belonging to government." Sebastian County Chapter of Am. Red Cross v. Weatherford, 311 Ark. 656, 846 S.W.2d 641 (1993).

Public Meetings.

Where committee of a state board meets to transact business, such meeting is a public meeting subject to the provisions of this chapter and a newspaper reporter must be permitted to attend. Arkansas Gazette Co. v. Pickens, 258 Ark. 69, 522 S.W.2d 350 (1975).

This section does not encompass staff meetings of the Department of Human Services held to develop a bid solicitation. National Park Medical Ctr. v. Arkansas Dep't of Human Servs., 322 Ark. 595, 911 S.W.2d 250 (1995).

Public Records.

Records of intercollegiate conference on the amount of money that its member institutions disbursed to its student athletes were not "educational" records under the Family Education Rights and Privacy Act of 1974, and were not closed to the public because they were not individual education or academic records; moreover, the conference was not entitled to exemption from disclosure since it was partially supported by public funds, and the dues paid by some member institutions were from state funds so that the conference records came within the terms of this section. Arkansas Gazette Co. v. Southern State College, 273 Ark. 248, 620 S.W.2d 258 (1981), appeal dismissed, 455 U.S. 931, 102 S. Ct. 1416, 71 L. Ed. 2d 640 (1982).

Recorded votes of individual members of committee constituted a record of the performance or lack of performance of

official functions carried out by the committee, and where there was testimony that it was the general practice of the committee to retain mailout ballots used in voting on matters coming before the committee then, the vote slips at issue constituted public records which should have been retained. Depoyster v. Cole, 298 Ark. 203, 766 S.W.2d 606 (1989).

Police crime scene photographs and pathologist photographs are "otherwise kept" for evidence in criminal cases as an "official function" of a police department, and are thus public records subject to the Freedom of Information Act. McCambridge v. City of Little Rock, 298 Ark. 219, 766 S.W.2d 909 (1989).

Police investigation file with respect to the charges against defendant constituted "public records" as defined in subdivision (1). Martin v. Musteen, 303 Ark. 656, 799 S.W.2d 540 (1990).

Legal memoranda prepared by outside counsel for the City for litigation purposes are public records within the meaning of this chapter and are open to inspection. City of Fayetteville v. Edmark, 304 Ark. 179, 801 S.W.2d 275 (1990).

Inmate records appellee requested were "public records" since they were required to be kept by law. Furman v. Holloway, 312 Ark. 378, 849 S.W.2d 520 (1993).

By requiring audits to be performed by a private auditing firm and not the state auditor, the state, in § 15-5-210, has elected to employ a private firm to perform a task normally carried out by state employees or officials; thus, the audit working papers of the Legislative Joint Auditing Committee are considered public records subject to this chapter. Swaney v. Tilford, 320 Ark. 652, 898 S.W.2d 462 (1995).

Cited: Legislative Joint Auditing Comm. v. Woosley, 291 Ark. 89, 722 S.W.2d 581 (1987); Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc., 294 Ark. 490, 744 S.W.2d 711 (1988); Young v. Rice, 308 Ark. 593, 826 S.W.2d 252 (1992); Stilley v. McBride, 332 Ark. 306, 965 S.W.2d 125 (1998); Arkansas Dep't of Fin. v. Pharmacy Assocs., Inc., 333 Ark. 451, 970 S.W.2d 217 (1998).

25-19-104. Penalty.

Any person who negligently violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200) or thirty (30) days in jail, or both, or a sentence of appropriate public service or education, or both.

History. Acts 1967, No. 93, § 7; A.S.A. 1947, § 12-2807; Acts 1987, No. 49, § 3.

CASE NOTES**Construction.**

The penal nature of this section does not make the entire chapter penal so as to require it to be strictly construed. Laman

v. McCord, 245 Ark. 401, 432 S.W.2d 753 (1968).

Cited: Saline Mem. Hosp. v. Berry, 321 Ark. 588, 906 S.W.2d 297 (1995).

25-19-105. Examination and copying of public records.

(a)(1) Except as otherwise specifically provided by this section or by laws specifically enacted to provide otherwise, all public records shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records.

(2)(A) A citizen may make a request to the custodian to inspect, copy, or receive copies of public records.

(B) The request may be made in person, by telephone, by mail, by facsimile transmission, by electronic mail, or by other electronic means provided by the custodian.

(C) The request shall be sufficiently specific to enable the custodian to locate the records with reasonable effort.

(3) If the person to whom the request is directed is not the custodian of the records, the person shall so notify the requester and identify the custodian, if known to or readily ascertainable by the person.

(b) It is the specific intent of this section that the following shall not be deemed to be made open to the public under the provisions of this chapter:

(1) State income tax records;

(2) Medical records, adoption records, and education records as defined in the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, unless their disclosure is consistent with the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g;

(3) The site files and records maintained by the Arkansas Historic Preservation Program of the Department of Arkansas Heritage and the Arkansas Archeological Survey;

(4) Grand jury minutes;

(5) Unpublished drafts of judicial or quasijudicial opinions and decisions;

(6) Undisclosed investigations by law enforcement agencies of suspected criminal activity;

(7) Unpublished memoranda, working papers, and correspondence of the Governor, members of the General Assembly, Supreme Court Justices, Court of Appeals Judges, and the Attorney General;

(8) Documents which are protected from disclosure by order or rule of court;

(9)(A) Files which, if disclosed, would give advantage to competitors or bidders, and records maintained by the Arkansas Economic Development Commission related to any business entity's planning, site location, expansion, operations, or product development and marketing, unless approval for release of such records is granted by the business entity.

(B) Provided, however, this exemption shall not be applicable to any records of expenditures or grants made or administered by the commission and otherwise disclosable under the provisions of this chapter;

(10)(A) The identities of law enforcement officers currently working undercover with their agencies and identified in the Arkansas Minimum Standards Office as undercover officers.

(B) Records of the number of undercover officers and agency lists are not exempt from this chapter;

(11) Records containing measures, procedures, instructions, or related data used to cause a computer or a computer system or network, including telecommunication networks or applications thereon to perform security functions, including, but not limited to, passwords, personal identification numbers, transaction authorization mechanisms, and other means of preventing access to computers, computer systems or networks, or any data residing therein;

(12) Personnel records to the extent that disclosure would constitute a clearly unwarranted invasion of personal privacy;

(13) Home addresses of nonelected state employees contained in employer records, except that the custodian of the records shall verify an employee's city or county of residence or address on record upon request; and

(14) Materials, information, examinations, and answers to examinations utilized by boards and commissions for purposes of testing applicants for licensure by state boards or commissions.

(c)(1) Notwithstanding subdivision (b)(12) of this section, all employee evaluation or job performance records, including preliminary notes and other materials, shall be open to public inspection only upon final administrative resolution of any suspension or termination proceeding at which the records form a basis for the decision to suspend or terminate the employee and if there is a compelling public interest in their disclosure.

(2) Any personnel or evaluation records exempt from disclosure under this chapter shall nonetheless be made available to the person about whom the records are maintained or to that person's designated representative.

(3)(A) Upon receiving a request for the examination or copying of personnel or evaluation records, the custodian of the records shall

determine within twenty-four (24) hours of the receipt of the request whether the records are exempt from disclosure and make efforts to the fullest extent possible to notify the person making the request and the subject of the records of that decision.

(B)(i) If the subject of the records cannot be contacted in person or by telephone within the twenty-four-hour period, the custodian shall send written notice via overnight mail to the subject of the records at his or her last known address. Either the custodian, requester, or the subject of the records may immediately seek an opinion from the Attorney General, who, within three (3) working days of receipt of the request, shall issue an opinion stating whether the decision is consistent with this chapter.

(ii) In the event of a review by the Attorney General, the custodian shall not disclose the records until the Attorney General has issued his or her opinion.

(C) However, nothing in this subsection shall be construed to prevent the requester or the subject of the records from seeking judicial review of the custodian's decision or the decision of the Attorney General.

(d)(1) Reasonable access to public records and reasonable comforts and facilities for the full exercise of the right to inspect and copy those records shall not be denied to any citizen.

(2)(A) Upon request and payment of a fee as provided in subdivision (d)(3) of this section, the custodian shall furnish copies of public records if the custodian has the necessary duplicating equipment.

(B) A citizen may request a copy of a public record in any medium in which the record is readily available or in any format to which it is readily convertible with the custodian's existing software.

(C) A custodian is not required to compile information or create a record in response to a request made under this section.

(3)(A)(i) Except as provided in § 25-19-109 or by law, any fee for copies shall not exceed the actual costs of reproduction, including the costs of the medium of reproduction, supplies, equipment, and maintenance, but not including existing agency personnel time associated with searching for, retrieving, reviewing, or copying the records.

(ii) The custodian may also charge the actual costs of mailing or transmitting the record by facsimile or other electronic means.

(iii) If the estimated fee exceeds twenty-five dollars (\$25.00), the custodian may require the requester to pay that fee in advance.

(iv) Copies may be furnished without charge or at a reduced charge if the custodian determines that the records have been requested primarily for noncommercial purposes and that waiver or reduction of the fee is in the public interest.

(B) The custodian shall provide an itemized breakdown of charges under subdivision (d)(3)(A) of this section.

(e) If a public record is in active use or storage and therefore not available at the time a citizen asks to examine it, the custodian shall

certify this fact in writing to the applicant and set a date and hour within three (3) working days at which time the record will be available for the exercise of the right given by this chapter.

(f)(1) No request to inspect, copy, or obtain copies of public records shall be denied on the ground that information exempt from disclosure is commingled with nonexempt information.

(2) Any reasonably segregable portion of a record shall be provided after deletion of the exempt information.

(3) The amount of information deleted shall be indicated on the released portion of the record and, if technically feasible, at the place in the record where the deletion was made.

(4) If it is necessary to separate exempt from nonexempt information in order to permit a citizen to inspect, copy, or obtain copies of public records, the custodian shall bear the cost of the separation.

(g) Any computer hardware or software acquired by an entity subject to § 25-19-103(5)(A) after July 1, 2001, shall be in full compliance with the requirements of this section and shall not impede public access to records in electronic form.

(h) Notwithstanding any Arkansas law to the contrary, at the conclusion of any investigation conducted by a state agency in pursuit of civil penalties against the subject of the investigation, any settlement agreement entered into by a state agency shall be deemed a public document for the purposes of this chapter. However, the provisions of this subsection shall not apply to any investigation or settlement agreement involving any state tax covered by the Arkansas Tax Procedure Act, § 26-18-101 et seq.

History. Acts 1967, No. 93, § 4; 1977, No. 652, § 2; A.S.A. 1947, § 12-2804; Acts 1987, No. 49, § 1; 1989 (3rd Ex. Sess.), No. 8, § 1; 1993, No. 895, § 1; 1997, No. 540, § 52; 1997, No. 873, § 1; 1997, No. 1335, § 1; 1999, No. 1093, § 1; 2001, No. 1259, § 1; 2001, No. 1336, § 1; 2001, No. 1653, § 2.

A.C.R.C. Notes. Acts 1999, No. 1093, § 1 provided, in part, in the provision formerly codified as (b)(12): "Division of ownership information on oil or gas leases voluntarily provided by an oil or gas company to a county assessor, which if disclosed, could result in an economic loss to the company. This subdivision (12) shall expire on July 1, 1999."

Amendments. The 1997 amendment by No. 540 substituted "Arkansas Economic Development Commission" for "Arkansas Industrial Development Commission" twice in (b)(9)(B).

The 1997 amendment by No. 873 added (f).

The 1997 amendment by No. 1335 added (b)(12).

The 1999 amendment inserted "Court of Appeals Judges" in (b)(7); and made stylistic changes.

The 2001 amendment by No. 1259 added (b)(14).

The 2001 amendment by No. 1336 added (b)(13).

The 2001 amendment by No. 1653 added (a)(2) and (3); rewrote (b)(2); deleted former (b)(10); added present (b)(11)-(13); in (c)(1) substituted "Notwithstanding subdivision (b)(12) of this section" for "However"; added present (d)(2) and (3); added present (f) and (g); redesignated former (f) as present (h); and made stylistic changes.

Cross References. Student competency tests excluded, § 6-15-415.

RESEARCH REFERENCES

- UALR L.J. Survey — Miscellaneous, 10
 UALR L.J. 593. Computer Technology and the Arkansas
 Freedom of Information Act, 17 UALR
 Brooks, Adventures in Cyber-Space: L.J. 417.

CASE NOTES

ANALYSIS

Constitutionality.
 In general.
 Construction.
 Applicability.
 Attorney-client privilege.
 Attorney general.
 Competitor.
 Exempted records.
 Investigation files.
 Medical records.
 Ongoing investigations.
 Parties entitled.
 Personnel records.
 Records subject to inspection.
 Regular business hours.

Constitutionality.

There is a rational basis for exempting the working papers of the governor, the legislators, and the supreme court justices from public disclosure. Such protection promotes and encourages free exchange of thought in each of the three branches of government. *McCambridge v. City of Little Rock*, 298 Ark. 219, 766 S.W.2d 909 (1989).

The attorney-client privilege has no application outside of court proceedings and, therefore, cannot create an exception to the Freedom of Information Act. *McCambridge v. City of Little Rock*, 298 Ark. 219, 766 S.W.2d 909 (1989).

In General.

Generally, all public records are available for inspection under the Freedom of Information Act; exceptions are spelled out in this section. *City of Fayetteville v. Rose*, 294 Ark. 468, 743 S.W.2d 817 (1988).

This chapter does not require a court to provide, free of charge, a copy of material on file with the court; a petitioner is not entitled to photocopying at public expense unless he demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for post-conviction relief. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996).

Construction.

The Freedom of Information Act should be broadly construed in favor of disclosure, and exceptions construed narrowly in order to counterbalance the self-protective instincts of the governmental bureaucracy. *McCambridge v. City of Little Rock*, 298 Ark. 219, 766 S.W.2d 909 (1989); *Bryant v. Mars*, 309 Ark. 480, 830 S.W.2d 869 (1992).

Acts 1989 (3rd Ex. Sess.), No. 8 was not merely remedial or procedural in nature, but created new exemptions from public disclosure which did not exist before. Statutes which are remedial or procedural generally supply new, different, or more appropriate remedies which relate to existing rights, and do not create new rights or extinguish old ones. *Gannett River States Publishing Co. v. Arkansas Indus. Dev. Comm'n*, 303 Ark. 684, 799 S.W.2d 543 (1990).

Any exemption from disclosure is to be narrowly construed, and when the scope of an exemption is unclear or ambiguous, the court will interpret it in a manner that favors disclosure. *Young v. Rice*, 308 Ark. 593, 826 S.W.2d 252 (1992).

Exemptions to the Freedom of Information Act are to be narrowly construed. *Troutt Bros. v. Emison*, 311 Ark. 27, 841 S.W.2d 604 (1992); *Young v. Rice*, 308 Ark. 593, 826 S.W.2d 252 (1992).

The court's policy regarding this chapter has been enunciated clearly in our case law — it will interpret it liberally to accomplish the purpose of promoting free access to public information. *Johninson v. Stodola*, 316 Ark. 423, 872 S.W.2d 374 (1994).

Applicability.

Acts 1989 (3rd Ex. Sess.), No. 8 contains neither express language nor clear implication mandating retroactive effect, and operates prospectively only. *Gannett River States Publishing Co. v. Arkansas Indus. Dev. Comm'n*, 303 Ark. 684, 799 S.W.2d 543 (1990).

In order to invoke a narrowly construed exemption under this chapter, the circuit court must peruse the pertinent data in question in order to make an informed decision. *Johninson v. Stodola*, 316 Ark. 423, 872 S.W.2d 374 (1994).

The circuit court must review the relevant files in camera in order to make its decision that the exemption of subdivision (b)(6) of this section applies across the board to those files. *Johninson v. Stodola*, 316 Ark. 423, 872 S.W.2d 374 (1994).

Attorney-Client Privilege.

There is no attorney-client privilege or attorney work product exemption under this chapter. *City of Fayetteville v. Edmark*, 304 Ark. 179, 801 S.W.2d 275 (1990).

Attorney General.

The term "Attorney General" as used in this section refers to the office as opposed to an individual, including not only the individual holding the elective office but also his authorized deputies and representatives. *Bryant v. Mars*, 309 Ark. 480, 830 S.W.2d 869 (1992).

The working papers of an outside consultant retained by the Attorney General, are also exempt from the Freedom of Information Act as working papers of the Attorney General. *Bryant v. Mars*, 309 Ark. 480, 830 S.W.2d 869 (1992).

Competitor.

Categorizing members of the public who may wish to learn of, and/or disagree with, actions of public officials, even to the point of litigation, does not make such a person or entity a "competitor" as envisioned by this chapter. *City of Fayetteville v. Edmark*, 304 Ark. 179, 801 S.W.2d 275 (1990).

A state agency can claim the competitive advantage exception on behalf of the person who supplied the information. *Arkansas Dep't of Fin. v. Pharmacy Assocs., Inc.*, 333 Ark. 451, 970 S.W.2d 217 (1998).

The Department of Finance and Administration (DF&A) was not required to fully disclose a company's successful bid proposal to the DF&A since the bid proposal fell under the competitive advantage exception and since disclosure would not only be detrimental to the successful bidder, but also to the DF&A in the quality of information it would receive to requests for proposals in the future. *Arkansas*

Dep't of Fin. v. Pharmacy Assocs., Inc., 333 Ark. 451, 970 S.W.2d 217 (1998).

Exempted Records.

Public access must be afforded only to those records statutorily required to be kept by public agencies and lists of recipients of complimentary football tickets kept by state university, since not required by statute, need not be opened to public. *McMahan v. Board of Trustees*, 255 Ark. 108, 499 S.W.2d 56 (1973).

An order sealing a written pretrial motion was exempted from inspection or copying under this section. *Arkansas Newspaper, Inc. v. Patterson*, 281 Ark. 213, 662 S.W.2d 826 (1984).

This section does not exempt working papers of employees of a legislative committee, only those of the legislator; therefore, the working papers of an auditor who was a state employee were not exempt. *Legislative Joint Auditing Comm. v. Woosley*, 291 Ark. 89, 722 S.W.2d 581 (1987).

The law enforcement exception to the Freedom of Information Act includes only agencies which investigate suspected criminal activity under the State Penal Code and have enforcement powers; therefore, the law enforcement exemption does not apply to state auditors working for the Legislative Joint Auditing Committee. *Legislative Joint Auditing Comm. v. Woosley*, 291 Ark. 89, 722 S.W.2d 581 (1987).

Records not of an "undisclosed investigation" are public and available for examination. *City of Fayetteville v. Rose*, 294 Ark. 468, 743 S.W.2d 817 (1988).

Real estate appraisals did not amount to working papers, correspondence, and unpublished memoranda of the Attorney General. *Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc.*, 294 Ark. 490, 744 S.W.2d 711 (1988).

Disclosures requested held not protected by exception in subdivision (b)(8) of this section. *Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc.*, 294 Ark. 490, 744 S.W.2d 711 (1988).

Exclusion in subdivision (b)(9) is intended to prevent competitors from obtaining information about others seeking the same type of work or furnishing material to the state. *Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc.*, 294 Ark. 490, 744 S.W.2d 711 (1988).

Attorney-client privilege is not one of exceptions of this section. *Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc.*, 294 Ark. 490, 744 S.W.2d 711 (1988).

When a criminal case is closed by administrative action, the reason for the exemption under subdivision (b)(6) no longer exists, and statements previously exempted thereby may be released. *McCambridge v. City of Little Rock*, 298 Ark. 219, 766 S.W.2d 909 (1989).

Applying the general rule of prospectivity which governs interpretation of statutes, the application of the May 14, 1990, version of Rule 7 of the Rules of Judicial Discipline & Disability Commission is prospective, and thus the Judicial Discipline & Disability Commission is not required to divulge its actions prior to that time which were protected under the former rule and statute. *Gannett River States Publishing Co. v. Arkansas Judicial Discipline & Disability Comm'n*, 304 Ark. 244, 801 S.W.2d 292 (1990).

Because only the General Assembly can create exceptions to this chapter, a statute must specifically provide for nondisclosure before a court will exempt a public record from the chapter. *Troutt Bros. v. Emison*, 311 Ark. 27, 841 S.W.2d 604 (1992).

There must be a specific statutory mandate to exempt public records from disclosure. *Byrne v. Eagle*, 319 Ark. 587, 892 S.W.2d 487 (1995).

The home addresses of 2 police officers, which were sought by the plaintiff in a civil action so as to decrease his cost of service of process, were exempt from disclosure as an unwarranted invasion of personal privacy. *Stilley v. McBride*, 332 Ark. 306, 965 S.W.2d 125 (1998).

Investigation Files.

Where the high level of publicity and media attention threatened to interfere with defendant's right to a fair trial, the closing of the investigation files of the state police and the files of all investigative agencies, including a legislative audit, by the court, was warranted to ensure the defendant's right to a fair trial. *Arkansas Gazette Co. v. Goodwin*, 304 Ark. 204, 801 S.W.2d 284 (1990).

Medical Records.

Hospital statements taken from witnesses as part of a quality assurance or

peer review proceeding were excluded from disclosure and were absolutely privileged communications pursuant to Arkansas statutes. *Berry v. Saline Mem. Hosp.*, 322 Ark. 182, 907 S.W.2d 736 (1995).

Ongoing Investigations.

If a law enforcement investigation remains open and ongoing it is one meant to be protected as "undisclosed" under the Arkansas Freedom of Information Act. *Martin v. Musteen*, 303 Ark. 656, 799 S.W.2d 540 (1990).

The trial court will have to decide, as a matter of fact in each case, whether investigations are ongoing or not for purposes of applying the exemption provided in subdivision (b)(6). *Martin v. Musteen*, 303 Ark. 656, 799 S.W.2d 540 (1990).

Parties Entitled.

Intent of Freedom of Information Act includes a corporation doing business in this state as being a party entitled to information. Hence, representative of corporation is entitled to receive any information that any other person would be entitled to receive pursuant to the Freedom of Information Act. *Arkansas Hwy. & Transp. Dep't v. Hope Brick Works, Inc.*, 294 Ark. 490, 744 S.W.2d 711 (1988).

The public, for whose benefit this chapter was enacted, includes both those who support and those who oppose the actions or inactions of public officials, employees or agencies, as well as those who wish to merely learn of and evaluate the actions of public officials. *City of Fayetteville v. Edmark*, 304 Ark. 179, 801 S.W.2d 275 (1990).

The Attorney General, acting in his official capacity and using the resources of his office, possesses standing to appeal the denial of his request pursuant to the Arkansas Freedom of Information Act. *Bryant v. Weiss*, 335 Ark. 534, 983 S.W.2d 902 (1998).

Personnel Records.

Subdivision (b)(10) requires that the public's right to knowledge of records be weighed against an individual's right to privacy, so that when the public's interest is substantial, it will usually outweigh any individual privacy interests, and disclosure will be favored. *Young v. Rice*, 308 Ark. 593, 826 S.W.2d 252 (1992).

Where the release of records could sub-

ject candidates for police lieutenant to embarrassment, and perhaps threaten their future employment, release would result in a clearly unwarranted invasion of the candidates' personal privacy; although the public's interest in knowing that its safety is protected by the best-qualified police lieutenant is also substantial, it was served by the release of the report forms, even though the candidates' identities remained unknown. *Young v. Rice*, 308 Ark. 593, 826 S.W.2d 252 (1992).

Records Subject to Inspection.

The books and records of a city collector's office are at all times available to the public. *Pointer v. State*, 248 Ark. 710, 454 S.W.2d 91, cert. denied, 400 U.S. 959, 91 S. Ct. 359, 27 L. Ed. 2d 268 (1970).

Records of intercollegiate conference on the amount of money that its member institutions disbursed to its student athletes records were not "educational" records under the Family Education Rights and Privacy Act of 1974, and were not closed to the public because they were not individual education or academic records. *Arkansas Gazette Co. v. Southern State College*, 273 Ark. 248, 620 S.W.2d 258 (1981), appeal dismissed, 455 U.S. 931, 102 S. Ct. 1416, 71 L. Ed. 2d 640 (1982).

Information stored on computer tapes is a public record, and the public is entitled to have it in the form in which it is kept. *Blaylock v. Staley*, 293 Ark. 26, 732 S.W.2d 152 (1987).

Committee violated the Arkansas Freedom of Information Act when it used unsigned written ballots which were disposed of in a manner making their review impossible. *Depoyster v. Cole*, 298 Ark. 203, 766 S.W.2d 606 (1989).

While items obtained by police in the course of a criminal investigation involve personal matters, the governmental interest in disclosure under the Freedom of Information Act may outweigh the privacy interest in the nondisclosure of personal matters. *McCambridge v. City of Little Rock*, 298 Ark. 219, 766 S.W.2d 909 (1989).

Legal memoranda prepared by outside counsel for the City for litigation purposes are public records within the meaning of this chapter and are open to inspection, and, the enhanced risk that the City may lose litigation does not constitute an exemption. *City of Fayetteville v. Edmark*, 304 Ark. 179, 801 S.W.2d 275 (1990).

The jail log, arrest records and shift sheet requested from the police department by a news reporter were not records containing undisclosed law enforcement investigations and were subject to disclosure pursuant to this section. *Hengel v. City of Pine Bluff*, 307 Ark. 457, 821 S.W.2d 761 (1991).

There is no statute that specifically provides for the exemption of the names of juveniles arrested for felonies but not charged as delinquent juveniles, thus, detention facility logs and booking sheets of juvenile detention facilities are not exempt. *Troutt Bros. v. Emison*, 311 Ark. 27, 841 S.W.2d 604 (1992).

By requiring audits to be performed by a private auditing firm and not the state auditor, the state, in § 15-5-210, has elected to employ a private firm to perform a task normally carried out by state employees or officials; thus, the audit working papers of the Legislative Joint Auditing Committee are considered public records subject to this chapter. *Swaney v. Tilford*, 320 Ark. 652, 898 S.W.2d 462 (1995).

Regular Business Hours.

As the police department operated 24 hours a day, seven days a week, in the absence of some showing to the contrary those were its regular business hours. *Hengel v. City of Pine Bluff*, 307 Ark. 457, 821 S.W.2d 761 (1991).

Cited: *Baxter County Newspapers, Inc. v. Medical Staff of Baxter Gen. Hosp.*, 273 Ark. 511, 622 S.W.2d 495 (1981); *Morton v. City of Little Rock*, 728 F. Supp. 543 (E.D. Ark. 1989); *Arkansas Dep't of Health v. Westark Christian Action Council*, 322 Ark. 440, 910 S.W.2d 199 (1995); *Hamilton v. Simpson*, 67 Ark. App. 173, 993 S.W.2d 501 (1999).

25-19-106. Open public meetings.

(a) Except as otherwise specifically provided by law, all meetings, formal or informal, special or regular, of the governing bodies of all municipalities, counties, townships, and school districts and all boards,

bureaus, commissions, or organizations of the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds, shall be public meetings.

(b)(1) The time and place of each regular meeting shall be furnished to anyone who requests the information.

(2) In the event of emergency or special meetings, the person calling the meeting shall notify the representatives of the newspapers, radio stations, and television stations, if any, located in the county in which the meeting is to be held and any news media located elsewhere which cover regular meetings of the governing body and which have requested to be so notified of emergency or special meetings of the time, place, and date of the meeting. Notification shall be made at least two (2) hours before the meeting takes place in order that the public shall have representatives at the meeting.

(c)(1) Executive sessions will be permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee. The specific purpose of the executive session shall be announced in public before going into executive session.

(2)(A) Only the person holding the top administrative position in the public agency, department, or office involved, the immediate supervisor of the employee involved, and the employee may be present at the executive session when so requested by the governing body, board, commission, or other public body holding the executive session.

(B) Any person being interviewed for the top administrative position in the public agency, department, or office involved may be present at the executive session when so requested by the governing board, commission, or other public body holding the executive session.

(3) Executive sessions must never be called for the purpose of defeating the reason or the spirit of this chapter.

(4) No resolution, ordinance, rule, contract, regulation, or motion considered or arrived at in executive session will be legal unless, following the executive session, the public body reconvenes in public session and presents and votes on the resolution, ordinance, rule, contract, regulation, or motion.

(5)(A) Boards and commissions of this state may meet in executive session for purposes of preparing examination materials and answers to examination materials which are administered to applicants for licensure from state agencies.

(B) Boards and commissions are excluded from this chapter for the administering of examinations to applicants for licensure.

History. Acts 1967, No. 93, § 5; 1975 (Extended Sess., 1976), No. 1201, § 1; 1985, No. 843, § 1; A.S.A. 1947, § 12-2805; reen. Acts 1987, No. 1001, § 1; 1999, No. 1589, § 1; 2001, No. 1259, § 2.

A.C.R.C. Notes. This section was reenacted by Acts 1987, No. 1001, § 1. Acts 1987, No. 834, provided that 1987 legislation reenacting acts passed in the 1976 Extended Session should not repeal any

other 1987 legislation and that such other legislation would be controlling in the event of conflict.

Amendments. The 1999 amendment added the last sentence in (c)(1).

The 2001 amendment added (c)(5).

RESEARCH REFERENCES

UALR L.J. Brooks, Adventures in Cyber-Space: Computer Technology and

the Arkansas Freedom of Information Act, 17 UALR L.J. 417.

CASE NOTES

ANALYSIS

In general.

Applicability.

Committee meetings.

Emergency or special meetings.

Executive sessions.

Injunction.

Invalidation of action.

Publicly funded agencies.

In General.

The legislature, in this section, has provided for both the public's right to know and protection of the individual's rights from unwarranted adverse publicity and ensuing damage to his reputation. *Commercial Printing Co. v. Rush*, 261 Ark. 468, 549 S.W.2d 790 (1977).

Applicability.

The Freedom of Information Act applies to formal and informal meetings alike, not just to meetings of officially designated committees, and applies to informal but unofficial group meetings for the discussion of governmental business. *Mayor of El Dorado v. El Dorado Broadcasting Co.*, 260 Ark. 821, 544 S.W.2d 206 (1976).

This section does not encompass staff meetings of the Department of Human Services held to develop a bid solicitation. *National Park Medical Ctr. v. Arkansas Dep't of Human Servs.*, 322 Ark. 595, 911 S.W.2d 250 (1995).

Committee Meetings.

Where committee of a state board meets to transact business, such meeting is a public meeting subject to the provisions of this chapter and a newspaper reporter must be permitted to attend, and may seek a declaratory judgment if refused admission. *Arkansas Gazette Co. v. Pickens*, 258 Ark. 69, 522 S.W.2d 350 (1975).

Emergency or Special Meetings.

This chapter repealed former open

meetings law by implication and thus, since no advance notice of emergency meetings of school board were required unless requested by the news media under this section, approval of \$150,000 bond issue by electors of school district was not void for failure to give notice of meetings. *Nance v. Williams*, 263 Ark. 237, 564 S.W.2d 212 (1978).

The allegation that a special meeting had been called without notice to the press states a cause of action at law for a declaratory judgment. *Yandell v. Havana Bd. of Educ.*, 266 Ark. 434, 585 S.W.2d 927 (1979).

Subsection (b)(2) of this section provides that the news media located in the county where the meeting is held and those located elsewhere that cover regular meetings of the body may request that they be notified of special and emergency meetings; absent such a request, no notice to them is required. *Elmore v. Burke*, 337 Ark. 235, 987 S.W.2d 730 (1999).

Executive Sessions.

It was a violation of this section for a city council to go into an executive session with the mayor and city attorney to discuss a Public Service Commission proceeding to which the city was a party. *Laman v. McCord*, 245 Ark. 401, 432 S.W.2d 753 (1968).

This section required that the hearing of testimony concerning reinstatement of a discharged officer, as distinguished from a discussion or consideration by the State Police Commission, be held in public. *Arkansas State Police Comm'n v. Davidson*, 253 Ark. 1090, 490 S.W.2d 788 (1973).

This section makes it mandatory for the commissioners to reassemble in public session for the purpose of voting on the matter which they have discussed or considered in executive session. *Arkansas State Police Comm'n v. Davidson*, 253 Ark. 1090, 490 S.W.2d 788 (1973).

Once an executive session had been called for a proper purpose, the subsequent discussion could of necessity deal with several areas which, taken out of the context of the total discussion, might be construed as improper subject matter for an executive session. *Commercial Printing Co. v. Rush*, 261 Ark. 468, 549 S.W.2d 790 (1977).

It is not the bare decision whether or not to discipline an employee that the executive session provision allows to be made in privacy, but rather the discussion or consideration of particular acts or omissions of the employee whose conduct has been called into question so as to avoid adverse publicity and unjustified damage to the reputation of individuals, allegations against whom later prove unwarranted. *Commercial Printing Co. v. Rush*, 261 Ark. 468, 549 S.W.2d 790 (1977).

Once a decision has been made in executive session that discipline or other action is needed, all further acts of the board should be public, and the public officials accountable and answerable for their actions. *Commercial Printing Co. v. Rush*, 261 Ark. 468, 549 S.W.2d 790 (1977).

A resolution or motion actually considered or arrived at in executive session must be publicly ratified if it is to be legal. *Yandell v. Havana Bd. of Educ.*, 266 Ark. 434, 585 S.W.2d 927 (1979).

A meeting of the credentials committee of the medical staff of a county hospital for the hearing of testimony and a vote on whether the staff privileges of a doctor should be continued was required to be held in public, since the doctor's status was that of an individual who has certain privileges extended to him by a publicly owned, operated and supported county hospital; however, the discussion or consideration of the specific issue by the committee members could be conducted in executive session. *Baxter County Newspapers, Inc. v. Medical Staff of Baxter*

Gen. Hosp., 273 Ark. 511, 622 S.W.2d 495 (1981).

Injunction.

In an action to enjoin purchase of voting machines for noncompliance with this chapter, where plaintiffs testified that the general public was expelled from the meeting of the election commissioners to open and consider bids, but election commissioners and others testified that, when representatives of voting machine companies were asked to step outside, others left voluntarily, it was not error to deny the injunction. *Davis v. Jerry*, 245 Ark. 500, 432 S.W.2d 831 (1968).

Invalidation of Action.

Before invalidation of decision made in violation of this section is sought the board or agency must be given the opportunity to address the issue. *Rehab Hosp. Servs. Corp. v. Delta-Hills Health Sys. Agency*, 285 Ark. 397, 687 S.W.2d 840 (1985).

Publicly Funded Agencies.

A private, nonprofit association of colleges and secondary schools which was composed of public servants and accepted public moneys was subject to this chapter. *North Cent. Ass'n of Colleges & Sch. v. Troutt Bros.*, 261 Ark. 378, 548 S.W.2d 825 (1977).

A nonprofit regional health planning corporation which received its primary funding from the federal government was subject to this chapter and violated its open public meeting requirements when it reconsidered the granting of a certificate of need to construct a hospital after conducting a telephone poll of members of the executive committee. *Rehab Hosp. Servs. Corp. v. Delta-Hills Health Sys. Agency*, 285 Ark. 397, 687 S.W.2d 840 (1985).

Cited: *Wright v. South Ark. Regional Health Ctr., Inc.*, 800 F.2d 199 (8th Cir. 1986).

25-19-107. Appeal from denial of rights — Attorney's fees.

(a) Any citizen denied the rights granted to him or her by this chapter may appeal immediately from the denial to the Pulaski County Circuit Court or to the circuit court of the residence of the aggrieved party, if an agency of the state is involved, or to any of the circuit courts of the appropriate judicial districts when an agency of a county, municipality, township, or school district, or a private organization supported by or expending public funds, is involved.

(b) Upon written application of the person denied the rights provided for in this chapter, or any interested party, it shall be mandatory upon the circuit court having jurisdiction to fix and assess a day the petition is to be heard within seven (7) days of the date of the application of the petitioner, and to hear and determine the case.

(c) Those who refuse to comply with the orders of the court shall be found guilty of contempt of court.

(d) In any action to enforce the rights granted by this chapter, or in any appeal therefrom, the court shall assess against the defendant reasonable attorney's fees and other litigation expenses reasonably incurred by a plaintiff who has substantially prevailed unless the court finds that the position of the defendant was substantially justified or that other circumstances make an award of these expenses unjust. However, no expenses shall be assessed against the State of Arkansas or any of its agencies or departments. If the defendant has substantially prevailed in the action, the court may assess expenses against the plaintiff only upon a finding that the action was initiated primarily for frivolous or dilatory purposes.

History. Acts 1967, No. 93, § 6; A.S.A. 1947, § 12-2806; Acts 1987, No. 49, § 2.

CASE NOTES

ANALYSIS

Fees and costs.
Hearings.
Invalidation of agency action.
Jurisdiction.

Fees and Costs.

Where the circumstances do not suggest either arbitrary or bad faith conduct, an award of fees and costs is not warranted. *Depoyster v. Cole*, 298 Ark. 203, 766 S.W.2d 606 (1989).

The trial court need not make a fee award in every Freedom of Information Act case; the purpose of the fee-shifting provision is to assess fees and costs where public officials have acted arbitrarily or in bad faith in withholding records. *Burke v. Strange*, 335 Ark. 328, 983 S.W.2d 389 (1998).

The appellant was properly denied attorneys' fees where (1) the record indicated that he was never denied access to the documents requested, and that the appellee voluntarily provided the requested documents when he became aware of their location and status, and (2) the appellant filed his action for attorneys' fees only one business day after filing his FOIA request, in violation of § 25-19-

105(e). *Hamilton v. Simpson*, 67 Ark. App. 173, 993 S.W.2d 501 (1999).

The trial court's finding that a volunteer fire department had substantial justification for refusing disclosure of requested records was clearly erroneous and, therefore, the trial court abused its discretion in denying the appellant's petition for attorney's fees, notwithstanding the fire department's assertion that it was justified in believing that it was not subject to the FOIA because its only connection to public funding was indirect support via state and federal loans, where the fire department performed public safety and utility functions traditionally performed by governmental entities by providing fire protection and water service pursuant to its contractual arrangement with a fire protection district and received funding from a public source. *Kristen Inv. Props. v. Faulkner County Waterworks*, 72 Ark. App. 37, 32 S.W.3d 60 (2000).

Hearings.

An inmate was entitled to a hearing on her request for documents from her prison file since the file was a public record and the Department of Correction was an agency of the state and denied her FOIA

request for the documents. *Orsini v. State*, 340 Ark. 665, 13 S.W.3d 167 (2000).

Invalidation of Agency Action.

Before invalidation of agency decision is sought on grounds of violation of this chapter, the board or agency must be given the opportunity to address the issue. *Rehab Hosp. Servs. Corp. v. Delta-Hills Health Sys. Agency*, 285 Ark. 397, 687 S.W.2d 840 (1985).

Jurisdiction.

When a city or other local agency is involved in a suit under this chapter, the aggrieved person should bring suit in the local judicial district where the parties and witnesses are apt to reside and not, despite the wording of this section, in

Pulaski County where most state agencies have their principal offices. *Acorn v. Jackson*, 263 Ark. 67, 562 S.W.2d 589 (1978).

When there is a complaint against a state agency under this chapter, the aggrieved person can appeal either to the Pulaski Circuit Court, where most state agencies have their principal office, or to the corresponding court in the county of his residence. *Acorn v. Jackson*, 263 Ark. 67, 562 S.W.2d 589 (1978).

Cited: *Furman v. Holloway*, 312 Ark. 378, 849 S.W.2d 520 (1993); *Saline Mem. Hosp. v. Berry*, 321 Ark. 588, 906 S.W.2d 297 (1995); *National Park Medical Ctr. v. Arkansas Dep't of Human Servs.*, 322 Ark. 595, 911 S.W.2d 250 (1995).

25-19-108. Information for public guidance.

(a) Each state agency, board, and commission shall prepare and make available:

(1) A description of its organization, including central and field offices, the general course and method of its operations, and the established locations, including, but not limited to, telephone numbers and street, mailing, electronic mail, and Internet addresses and the methods by which the public may obtain access to public records;

(2) A list and general description of its records, including computer databases;

(3)(A) Its regulations, rules of procedure, any formally proposed changes, and all other written statements of policy or interpretations formulated, adopted, or used by the agency, board, or commission in the discharge of its functions.

(B)(i) Rules, regulations, and opinions used in this section shall refer only to substantive and material items that directly affect procedure and decision-making.

(ii) Personnel policies, procedures, and internal policies shall not be subject to the provisions of this section.

(iii) Surveys, polls, and fact-gathering for decision-making shall not be subject to the provisions of this section.

(iv) Statistical data furnished to a state agency shall be posted only after the agency has concluded its final compilation and result.

(4) All documents composing an administrative adjudication decision in a contested matter, except the parts of the decision that are expressly confidential under state or federal law; and

(5) Copies of all records, regardless of medium or format, released under § 25-19-105 which, because of the nature of their subject matter, the agency, board, or commission determines have become or are likely to become the subject of frequent requests for substantially the same records.

(b)(1) All materials made available by a state agency, board, or commission pursuant to subsection (a) of this section and created after July 1, 2003, shall be made publicly accessible, without charge, in electronic form via the Internet.

(2) It shall be a sufficient response to a request to inspect or copy the materials that they are available on the Internet at a specified location, unless the requester specifies another medium or format under § 25-19-105(d)(2)(B).

History. Acts 2001, No. 1653, § 3.

25-19-109. Special requests for electronic information.

(a)(1) At his or her discretion, a custodian may agree to summarize, compile, or tailor electronic data in a particular manner or medium and may agree to provide the data in an electronic format to which it is not readily convertible.

(2) Where the cost and time involved in complying with the requests are relatively minimal, custodians should agree to provide the data as requested.

(b)(1) If the custodian agrees to a request, the custodian may charge the actual, verifiable costs of personnel time exceeding two (2) hours associated with the tasks, in addition to copying costs authorized by § 25-19-105(d)(3).

(2) The charge for personnel time shall not exceed the salary of the lowest paid employee or contractor who, in the discretion of the custodian, has the necessary skill and training to respond to the request.

(c) The custodian shall provide an itemized breakdown of charges under subsection (b) of this section.

History. Acts 2001, No. 1653, § 4.

CHAPTER 20
INTERLOCAL COOPERATION ACT

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. PUBLIC BODIES CORPORATE AND POLITIC.
- 3. CONSOLIDATED WATERWORKS SYSTEMS.

A.C.R.C. Notes. Due to the addition of Subchapter 2 of this chapter by Acts 1995, No. 813, the preexisting provisions of this chapter have been designated as Subchapter 1.

Cross References. County interlocal agreements, § 14-14-910.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 25-20-101. Title.
- 25-20-102. Purpose.
- 25-20-103. Definitions.
- 25-20-104. Agreements for joint or cooperative action — Authority to make — Requirements generally.
- 25-20-105. Agreements for joint or cooperative action — Filing — Interstate compacts — Liability for damages.
- 25-20-106. Agreements for joint or coop-

SECTION.

- erative action — Submission to and approval by state officer or agency controlling services or facilities.
- 25-20-107. Appropriation of funds — Supplying of personnel or services.
- 25-20-108. Contract for services from another agency — Requirements — Limitations.

Effective Dates. Acts 1967, No. 430, § 10: Mar. 16, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is currently no general authority for interlocal cooperation among the various political subdivisions of this state and between political subdivisions of this state and other states, and that such authority will make it possible for such subdivision to perform local functions and provide local services much more efficiently. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in effect from the date of its passage and approval."

Acts 1973, No. 415, § 2: Mar. 21, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Interlocal Cooperation Act, Act 430 of 1967, was intended to permit local governmental units to make the most efficient uses of the powers and resources by enabling them to cooperate together with other local governmental units on a basis of mutual advantage, and that in many instances school districts of this state, and city and county governments, could provide and share facilities, employees, and services that would provide mutual benefits to their respective advantages and enable them thereby to perform their respective responsibilities with maximum efficiencies; and that the immediate passage of this act is necessary to enable school districts to participate in the Interlocal Cooperation Act. Therefore, an emergency is hereby declared to exist,

and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 208, § 6: Feb. 18, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that water districts created under Act 114 of 1957 are authorized to individually undertake projects to utilize a water supply available as a result of multi-purpose reservoirs constructed by the United States Corps of Engineers; that it would be mutually beneficial to permit water districts created under Act 114 of 1957 to jointly and cooperatively undertake such projects and that this Act is immediately necessary to permit such cooperative or joint action by such water districts. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 982, § 3: June 30, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the Arkansas laws for the operation and management of municipal waterworks are inadequate to accommodate the merger of two (2) or more large municipal waterworks; that a new law is needed to protect the financial and governmental interests of the various municipalities involved in consolidating the various municipal waterworks systems; that the financial savings and economies of scale which are anticipated from the merger will make

the consolidation in the best interest of the citizens of the merging municipalities; that the consolidation agreement was achieved through persistent and complex negotiations balancing the various municipal interests involved and it is therefore necessary that the law take effect at a

time prescribed by that agreement. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on June 30, 2001."

25-20-101. Title.

This chapter may be cited as the "Interlocal Cooperation Act".

History. Acts 1967, No. 430, § 2;
A.S.A. 1947, § 14-902.

25-20-102. Purpose.

It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

History. Acts 1967, No. 430, § 1;
A.S.A. 1947, § 14-901.

25-20-103. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Public agency" means any school district, any political subdivision of this state, any agency of the state government or of the United States, any political subdivision of another state, water districts created under the provisions of the Regional Water Distribution Act, § 14-116-101 et seq., and fire departments organized under the laws of this state if the fire departments offer fire protection services to unincorporated areas and have received approval by their quorum courts for participation in an interlocal cooperation agreement; and

(2) "State" means a state of the United States and the District of Columbia.

History. Acts 1967, No. 430, § 3; 1973, No. 415, § 1; 1975, No. 208, § 4; 1983, No. 180, § 1; A.S.A. 1947, § 14-903.

25-20-104. Agreements for joint or cooperative action — Authority to make — Requirements generally.

(a) Any governmental powers, privileges, or authority exercised or capable of exercise by a public agency of this state alone may be

exercised and enjoyed jointly with any other public agency of this state which has the same powers, privileges, or authority under the law and jointly with any public agency of any other state of the United States which has the same powers, privileges, or authority, but only to the extent that laws of the other state or of the United States permit the joint exercise or enjoyment.

(b) Any two (2) or more public agencies may enter into agreements with one another for joint cooperative action pursuant to the provisions of this chapter. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before the agreement may enter into force.

(c) Any agreement for joint or cooperative action shall specify the following:

(1) Its duration;

(2) The precise organization, composition, and nature of any separate legal or administrative entity created thereby, together with the powers delegated to it, provided that the entity may be legally created;

(3) Its purposes;

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(5) The permissible methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon the partial or complete termination; and

(6) Any other necessary and proper matters.

(d) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, in addition to the items enumerated in subdivisions (c)(1) and (c)(3)-(6) of this section, the agreement shall contain the following:

(1) Provisions for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented; and

(2) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(e) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law, except that, to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, performance may be offered in satisfaction of the obligation or responsibility.

(f)(1) Every agreement made under this section prior to and as a condition precedent to its entry into force shall be submitted to the Attorney General, who shall determine whether the agreement is in proper form and compatible with the laws of this state.

(2) The Attorney General shall approve any agreement submitted to him or her under this section unless he or she shall find that it does not meet the conditions set forth in this section and shall detail, in writing addressed to the governing bodies of the public agencies concerned, the

specific respects in which the proposed agreement fails to meet the requirements of law.

(3) Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(g) Financing of joint projects by agreement shall be as provided by law.

(h) In addition to other specific grants of authority as provided in the Arkansas Constitution and statutes and in addition to the formal cooperation authorized by this chapter, cities, towns, counties, and other units of government are authorized to associate and cooperate with one another on an informal basis without complying with the detailed procedure set out in this section.

(i) In addition to the legal or administrative entities which may otherwise be legally created under Arkansas statutes, public agencies may create a separate legal entity in the form of a public body corporate and politic pursuant to:

(1) Section 25-20-201 et seq. for the purpose of constructing, operating, and maintaining a public library system; or

(2) Section 25-20-301 et seq. for the purpose of constructing, owning, operating, financing, and maintaining a consolidated waterworks system.

History. Acts 1967, No. 430, § 4; 1979, No. 52, § 1; A.S.A. 1947, § 14-904; Acts 1995, No. 813, § 1; 2001, No. 982, § 2.

Publisher's Notes. Acts 1979, No. 52, § 2, provided that it was the purpose of the act to further authorize and encourage association and cooperation between gov-

ernmental units which had existed in this state for many years and that the act was necessary for efficient and economical government.

Amendments. The 2001 amendment added (i)(2); and made minor stylistic changes.

25-20-105. Agreements for joint or cooperative action — Filing — Interstate compacts — Liability for damages.

(a) Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the county clerk and with the Secretary of State.

(b)(1) In the event that an agreement entered into pursuant to this chapter is between or among one (1) or more public agencies of this state and one (1) or more public agencies of another state or of the United States, the agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest.

(2)(A) The state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein.

(B) The action shall be maintained against any public agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state.

History. Acts 1967, No. 430, § 5;
A.S.A. 1947, § 14-905.

25-20-106. Agreements for joint or cooperative action — Submission to and approval by state officer or agency controlling services or facilities.

(a) In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement, as a condition precedent to its entry into force, shall be submitted to the state officer or agency having the power of control and shall be approved or disapproved by him or her or it as to all matters within his or her or its jurisdiction in the same manner and subject to the same requirements governing the action of the Attorney General pursuant to § 25-20-104(f).

(b) This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General.

History. Acts 1967, No. 430, § 6;
A.S.A. 1947, § 14-906.

25-20-107. Appropriation of funds — Supplying of personnel or services.

Any public agency entering into an agreement pursuant to this chapter may appropriate funds and may sell, lease, give, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing personnel or services therefor which may be within its legal power to furnish.

History. Acts 1967, No. 430, § 7;
A.S.A. 1947, § 14-907.

25-20-108. Contract for services from another agency — Requirements — Limitations.

(a) Any one (1) or more public agencies may contract with any one (1) or more other public agencies to perform any governmental service, activity, or undertaking which each of the public agencies entering into the contract is authorized by law to perform alone, provided that the contract shall be authorized by the governing body of each party to the contract. The contract shall set forth fully the purpose, powers, rights, objectives, and responsibilities of the contracting parties.

(b) However, nothing in this chapter authorizes or shall be construed to authorize any public agency to enter into any contract, agreement, or undertaking with any other public agency to purchase, condemn, or otherwise acquire any plant, property, facilities, or business owned or

operated by any regulated public utility or pipeline company or to jointly construct or operate any such plant, property, or facility.

History. Acts 1967, No. 430, § 8;
A.S.A. 1947, § 14-908.

SUBCHAPTER 2 — PUBLIC BODIES CORPORATE AND POLITIC

SECTION.
25-20-201. Creation.
25-20-202. Board of directors — Execu-
 tive director.
25-20-203. Powers.
25-20-204. Tax exempt status of property
 and income.

SECTION.
25-20-205. Immunity.
25-20-206. Construction.
25-20-207. Withdrawal.

Cross References. County libraries, Municipal Libraries and Reading
§ 13-2-401 et seq. Rooms, § 13-2-501 et seq.

25-20-201. Creation.

(a) Any two (2) or more public agencies are hereby authorized to create a public body corporate and politic as a separate legal entity for the purpose of constructing, operating, and maintaining a public library system.

(b) The governing body of each public agency wishing to form a public body corporate and politic shall, by ordinance or resolution, or otherwise pursuant to law, of the governing body of each participating public agency:

(1) Determine that it is in the best interest of the public agency in accomplishing the purposes of this subchapter to create a public body;

(2) Set forth the names of the public agencies which are proposed to form the public body;

(3) Specify any limitations on the exercise of the public body's powers;

(4) Specify the number of directors of the public body, the number of directors required from each public agency, and the voting rights of each director, which number and voting rights may vary by agency and director; and

(5) Approve the filing of an application with the Secretary of State to create the public body corporate and politic.

(c)(1) An application to create a public body corporate and politic shall then be prepared, setting forth:

(A) A request that a public body corporate and politic be created under this subchapter;

(B) The proposed name for the public body;

(C) The names of the participating public agencies;

(D) Any limitations on the exercise of the public body's powers;

(E) The number of directors of the public body;

(F) The number of directors required from each public agency; and

(G) The voting rights of each director.

(2) The application shall be deemed signed and approved by each public agency by attaching thereto a certified copy of the ordinance, resolution, or other action of each participating public agency.

(d)(1) The Secretary of State shall examine the application, and, if the Secretary of State finds that the name proposed for the public body is not identical with that of any other corporation, agency, or instrumentality of this state, so nearly similar as to lead to confusion and uncertainty, or otherwise deceptively misleading, the Secretary of State shall:

(A) Receive and file the application;

(B) Record it in an appropriate book of record in his or her office;

(C) Make and issue a certificate of incorporation under the seal of the state setting forth the names of the participating public agencies; and

(D) Record the certificate in an appropriate book of record in his or her office.

(2) A copy of the certificate of incorporation, certified by the Secretary of State, shall be admissible in evidence in any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the public body and shall be conclusive proof of the filing and contents of the certificate and the effective creation of the public body corporate and politic, absent fraud in the premises being established.

(e)(1) Any application filed with the Secretary of State pursuant to the provisions of this subchapter may be amended from time to time with the unanimous consent of the directors of the public body corporate and politic who are entitled to vote.

(2) The amendment shall be signed and filed with the Secretary of State in the manner provided in this section, whereupon the Secretary of State shall make and issue an amendment to the certificate of incorporation.

History. Acts 1995, No. 813, § 2.

25-20-202. Board of directors — Executive director.

(a)(1)(A) Each public body corporate and politic shall be administered and governed by a board of directors, with each director residing within the jurisdiction of the public agency which he or she represents.

(B) Each director shall be appointed by the governing body of the public agency which he or she represents, with all vacancies being likewise filled within forty-five (45) days.

(2)(A) The directors shall receive no compensation for their services, but they shall be entitled to reimbursement of expenses incurred in the performance of their duties.

(B) No director may serve more than six (6) consecutive years.

(3) Before entering upon their duties, the directors shall take and subscribe to an oath of office swearing to discharge faithfully their duties in the manner provided by law.

(b)(1) The board of directors shall appoint a paid executive director, who shall be in charge of the daily operations of the public body and shall be responsible for submitting a budget to the board of directors for approval and the hiring, dismissal, and compensation of other staff.

(2) The board of directors shall have final approval of all budgets.

History. Acts 1995, No. 813, § 2.

of Acts 1995, No. 1211, codified as § 25-

A.C.R.C. Notes. The operation of this section may be affected by the enactment

16-90 et seq.

25-20-203. Powers.

(a) Unless its application provides otherwise, each public body shall have the power to:

- (1) Have perpetual succession;
- (2) Maintain such offices as it may deem appropriate;
- (3) Execute and perform contracts;
- (4) Apply for and receive permits, licenses, certificates, and approvals as may be necessary and construct, maintain, and operate facilities in accordance therewith;
- (5) Employ the services of professionals;
- (6) Purchase insurance;
- (7) Purchase, receive, own, hold, improve, use, lease, sell, convey, exchange, transfer, assign, mortgage, pledge, or otherwise acquire, dispose of, or deal with, real or personal property or any legal or equitable interest therein in its own name;
- (8) Apply for, receive, and use loans, grants, taxes, donations, and contributions from any public agency or other lawful source, including any taxes levied pursuant to any authority granted by the Arkansas Constitution or statutes, and amendments thereto, and any proceeds from the sale of bonds;
- (9) Acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes, in the manner prescribed in §§ 18-15-1202 — 18-15-1207 or in the manner provided by any other statutory provisions for the exercise of the power of eminent domain; and
- (10) Do any and all other acts and things necessary, convenient, or desirable to carry out the purposes of and to exercise the powers granted to the public body by this subchapter.

(b) A public body corporate and politic created as provided by this subchapter shall constitute an independent legal entity, and, notwithstanding any other provision of state law or any ordinance, resolution, or other action of any participating public agency to the contrary, none of the powers granted to a public body under the provisions of this subchapter or in its application for incorporation shall be subject to the further supervision or regulation or require the further approval or consent of any participating public agency.

History. Acts 1995, No. 813, § 2.

25-20-204. Tax exempt status of property and income.

(a) Each public body corporate and politic created pursuant to this subchapter will be performing functions and will be a public instrumentality of the participating public agencies.

(b) Accordingly, all properties at any time owned by the public body and the income therefrom shall be exempt from all taxation in the state.

History. Acts 1995, No. 813, § 2.

25-20-205. Immunity.

(a) This subchapter does not abrogate or in any other manner affect the immunity of the participating public agencies.

(b) Such immunity extends also to any public body corporate and politic created pursuant to this subchapter and to each director thereof.

History. Acts 1995, No. 813, § 2.

25-20-206. Construction.

This subchapter shall be liberally construed to accomplish its intent and purposes and shall be the sole authority required for the accomplishment of its purposes. To this end it shall not be necessary to comply with the general provisions of other laws dealing with public facilities, their acquisition, construction, equipping, maintenance, operation, leasing, encumbering, or disposition.

History. Acts 1995, No. 813, § 2.

25-20-207. Withdrawal.

(a)(1) If any public agency participating in a public body corporate and politic wishes to withdraw therefrom, the governing body of that public agency shall determine by ordinance or resolution, or otherwise pursuant to law, of the governing body, that it is in the best interest of the public agency to withdraw from the public body and give notice thereof to all directors of the public body and to the mayor, county judge, president, chair, or other chief executive of the governing body of each of the other public agencies.

(2) Each such governing body shall have ninety (90) days in which to determine, by ordinance or resolution, or otherwise pursuant to law, of the governing body, whether to dissolve the public body or continue without the withdrawing public agency.

(b) The notice of withdrawal shall become effective upon the earlier of:

(1) The date each public agency participating in the public body makes its determination, as provided in subsection (a) of this section; or

(2) The expiration of ninety (90) days.

History. Acts 1995, No. 813, § 2.

SUBCHAPTER 3 — CONSOLIDATED WATERWORKS SYSTEMS

SECTION.

- 25-20-301. Title.
- 25-20-302. Creation.
- 25-20-303. Contributions of public agency properties.
- 25-20-304. Board of commissioners.
- 25-20-305. Powers and duties of board of commissioners.
- 25-20-306. General powers of public body.
- 25-20-307. Operation of consolidated waterworks system.
- 25-20-308. Out-of-area sales and services.
- 25-20-309. Eminent domain.
- 25-20-310. Improvements — Financing with bonds.
- 25-20-311. Lien in favor of bondholders.

SECTION.

- 25-20-312. Refunding bonds.
- 25-20-313. Securing deposit of public funds.
- 25-20-314. No personal liability.
- 25-20-315. Recreational use of property.
- 25-20-316. Zoning exemption.
- 25-20-317. Tax exempt status of property owned and income.
- 25-20-318. Immunity.
- 25-20-319. Franchise fees.
- 25-20-320. Payments in lieu of taxes.
- 25-20-321. Annual report and audit.
- 25-20-322. Provisions supplemental and controlling.
- 25-20-323. Construction.

Effective Dates. Acts 2001, No. 982, § 3: June 30, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the Arkansas laws for the operation and management of municipal waterworks are inadequate to accommodate the merger of two (2) or more large municipal waterworks; that a new law is needed to protect the financial and governmental interests of the various municipalities involved in consolidating the various municipal waterworks systems; that the financial savings and economies of scale which are anticipated from

the merger will make the consolidation in the best interest of the citizens of the merging municipalities; that the consolidation agreement was achieved through persistent and complex negotiations balancing the various municipal interests involved and it is therefore necessary that the law take effect at a time prescribed by that agreement. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on June 30, 2001.”

25-20-301. Title.

This subchapter may be referred to and cited as the “Consolidated Waterworks Authorization Act”.

History. Acts 2001, No. 982, § 1.

25-20-302. Creation.

(a) Any two (2) or more public agencies entering into an interlocal agreement under the Interlocal Cooperation Act, § 25-20-101 et seq., for the purpose of consolidating their waterworks systems are hereby authorized to create a public body corporate and politic as a separate legal entity for the purpose of constructing, owning, managing, operating, financing, improving, extending, acquiring, reconstructing, equip-

ping, selling, leasing, contracting concerning, dealing in, disposing of, and maintaining the consolidated waterworks system.

(b) The governing body of each public agency wishing to create a public body under this subchapter shall approve, by ordinance or resolution or otherwise pursuant to law, the filing of an application with the Secretary of State to create a public body under this subchapter and approve an interlocal agreement specifying the matters set forth in § 25-20-104. Additionally, the interlocal agreement shall:

(1) Specify any limitations on the exercise of the public body's powers, including such matters, if any, as to which the participating public agencies reserve rights to approve, disapprove, or otherwise participate in any exercise of the public body's powers;

(2) Provide for such reasonable franchise fees, payments in lieu of taxes, or other payments by the public body to the participating public agencies as the public agencies may deem appropriate;

(3) Specify the number of commissioners of the public body, the terms of office of the commissioners, the manner of appointing or electing the commissioners, the residency requirements, if any, applicable to commissioners in addition to those set forth in this subchapter, and the voting rights of each commissioner. The voting rights may vary by commissioner; and

(4) Set forth such other matters, not inconsistent with this subchapter, with respect to the creation and operation of the public body as the participating public agencies may deem necessary or appropriate.

(c)(1) An application to create a public body under this subchapter shall then be prepared, setting forth:

(A) A request that a public body corporate and politic be created under this subchapter;

(B) The proposed name for the public body;

(C) The names of the participating public agencies;

(D) The number of commissioners of the public body;

(E) The manner in which commissioners of the public body will be appointed or elected and the residency requirements, if any, applicable to commissioners in addition to those set forth in this subchapter;

(F) The voting rights of each commissioner;

(G) Special procedures for amending the certificate of incorporation, if any; and

(H) Such other matters, not inconsistent with this subchapter, with respect to the creation and operation of the public body as the participating public agencies may deem necessary or appropriate.

(2) The application shall be signed on behalf of each participating public agency by an authorized official of the public agency.

(d)(1) The Secretary of State shall examine the application and, if the Secretary of State finds that the name proposed for the public body is not identical with that of any other corporation, agency, or instrumentality of this state, so nearly similar as to lead to confusion and uncertainty, or otherwise deceptively misleading, the Secretary of State shall:

- (A) Receive and file the application;
- (B) Record it in an appropriate book of record in his or her office;
- (C) Make and issue a certificate of incorporation under the seal of the state setting forth the name of the public body and the names of the participating public agencies; and
- (D) Record the certificate in an appropriate book of record in his or her office.

(2) A copy of the certificate of incorporation, certified by the Secretary of State, shall be admissible in evidence in any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the public body and shall be conclusive proof of the filing and contents of the certificate and the effective creation of the public body under this subchapter, absent fraud in the premises being established.

(e)(1) Any certificate of incorporation issued by the Secretary of State pursuant to the provisions of this subchapter may be amended from time to time in the manner provided in the certificate of incorporation then existing or, if the certificate of incorporation does not specify a procedure for its amendment, with the consent of a majority of the commissioners of the public body who are entitled to vote.

(2)(A) The amendment shall be signed by an officer or other authorized person of the public body, who shall certify that the certificate of incorporation has been duly amended in accordance with the procedures of this subchapter and, as applicable, in the manner prescribed in the then-existing certificate of incorporation.

(B) Upon filing of the amendment with the Secretary of State in the manner provided in this section, the Secretary of State shall make and issue an amendment to the certificate of incorporation.

History. Acts 2001, No. 982, § 1.

25-20-303. Contributions of public agency properties.

(a)(1) Participating public agencies are authorized to contribute to a public body created under this subchapter such real and personal property of the participating public agencies as the participating public agencies shall deem necessary or appropriate to the ownership and operation of a consolidated waterworks system by the public body.

(2) However, any contributions of reserve funds held in trust under § 14-73-101 et seq. shall be made on the condition that the funds may be used only for the purposes described in the trust agreement and until so used shall remain in a trust fund complying with the requirements of § 14-73-101 et seq.

(3) Contributions of properties under this section shall be upon such terms and conditions and for such consideration as the participating public agencies may determine to be just and proper, it being within the participating public agencies' discretion to contribute property with or without monetary consideration.

(b) Participating public agencies shall have the power to execute any and all contracts, leases, deeds, bills of sale, easements, assignments,

and other instruments of conveyance as may be required or convenient to exercise the powers granted in this section.

History. Acts 2001, No. 982, § 1.

25-20-304. Board of commissioners.

(a)(1) Each public body created under this subchapter shall have a board of commissioners consisting of at least three (3) commissioners, with each commissioner residing within the jurisdiction of one (1) of the participating public agencies and otherwise meeting any residency requirements set forth in the public body's certificate of incorporation.

(2) Each commissioner shall be appointed or elected in the manner set forth in the public body's certificate of incorporation and shall serve a term of office as specified in the interlocal agreement.

(b) The commissioners shall receive no compensation for their services, but they shall be entitled to reimbursement of expenses incurred in the performance of their duties.

(c) Before entering upon their duties, the commissioners shall take and file with the Secretary of State an oath of office swearing to discharge faithfully their duties in the manner provided by law.

(d)(1) The board of commissioners shall meet and organize by electing one (1) of their number as chair, one (1) as vice chair, one (1) as secretary, and one (1) as treasurer, and those officers shall be elected annually thereafter in like manner.

(2) The duties of secretary and treasurer may be performed by the same commissioner.

(3) The secretary may cause copies to be made of all minutes and other records and documents of the public body. The secretary may give certificates under the official seal of the public body to the effect that the copies are true copies, and all persons dealing with the public body may rely upon the certificates.

History. Acts 2001, No. 982, § 1.

25-20-305. Powers and duties of board of commissioners.

All powers of any public body created under this subchapter shall be exercised by, or under the authority of, and the business and affairs of the public body managed under the direction of, its board of commissioners, subject to any limitation set forth in the public body's certificate of incorporation or interlocal agreement. The duties of the board of commissioners shall include, but not be limited to:

(1) Appointing a chief executive officer, who shall not be a member of the board of commissioners, and shall set compensation and other terms of employment for the chief executive officer;

(2) Approving all budgets of the public entity;

(3) Adopting such rules, regulations, and by-laws as the board of commissioners may deem necessary and expedient for the proper ownership and operation of the consolidated waterworks system, and

altering, changing, or amending the rules, regulations, and by-laws at its discretion; and

(4) Performing such other duties as shall be set forth in the interlocal agreement.

History. Acts 2001, No. 982, § 1.

25-20-306. General powers of public body.

(a) In addition to exercising the powers set forth elsewhere in this subchapter, and unless its certificate of incorporation or interlocal agreement provides otherwise, each public body created under this subchapter shall have the power to:

- (1) Have perpetual succession as a body politic and corporate;
- (2) Maintain such offices as it may deem appropriate;
- (3) Execute and perform contracts;
- (4) Sue and be sued;
- (5) Apply for and receive permits, licenses, certificates, and approvals as may be necessary and own and operate facilities in accordance therewith;
- (6) Employ the services of all personnel necessary to its operations and, in connection therewith, adopt and implement such healthcare, disability, bonus, retirement, and other employee benefit plans as the board of commissioners shall deem appropriate;
- (7) Employ the services of professionals;
- (8) Purchase insurance, maintain reserves for self-insurance, and become self-insured for the payment of compensation under the Workers' Compensation Law, § 11-9-101 et seq., by compliance with the requirements of § 11-9-404(a)(2), provided that deposit of an indemnity bond, letter of credit, or securities shall not be required;
- (9) Purchase, receive, own, hold, improve, use, lease, sell, convey, exchange, transfer, assign, mortgage, pledge, and otherwise acquire, dispose of, and deal with real and personal property and any legal or equitable interest therein in its own name;
- (10) Apply for, receive, and use loans, grants, taxes, donations, and contributions from any public agency or other lawful source, including any proceeds from the sale of bonds;
- (11) Borrow money on a secured or unsecured basis, and in connection therewith, issue bonds, promissory notes, or other evidence of indebtedness and make and deliver indentures, mortgages, pledges, security agreements, financing statements, and other instruments encumbering assets of the public body;
- (12) Pay reasonable franchise fees, make payments in lieu of taxes, or otherwise make payments to the participating public agencies in such amounts as may be required or permitted by the participating public agencies;
- (13) Exercise such other powers, privileges, and authorities as the participating public agencies shall have delegated to the public body by their interlocal agreement, subject to any restrictions imposed thereon by the interlocal agreement or applicable law; and

(14) Have such other and further powers relating to the ownership and operation of waterworks systems as are now by law given to the governing body of any participating public agency and do any and all other acts and things necessary, convenient, or desirable to carry out the purposes of, and to exercise the powers granted to, the public body by this subchapter.

(b) A public body created under this subchapter shall constitute a separate legal entity, but to the extent provided by state law or set forth in the certificate of incorporation of the public body or the interlocal agreement of the participating public agencies, shall be subject to the further supervision or regulation of, or require the further approval or consent of, any participating public agency.

History. Acts 2001, No. 982, § 1.

25-20-307. Operation of consolidated waterworks system.

(a) "Consolidated waterworks system" means and includes a waterworks and distribution system in its entirety, or any integral part thereof, including land, mains, pipelines, hydrants, meters, valves, standpipes, storage tanks, storage basins, pumping tanks, intakes, wells, clear water wells, impounding reservoirs, lakes, watercourses, pumps, purification plants and units thereof, filtration plants and units thereof, as well as all other real and personal property, buildings, structures, or other improvements or facilities as may be necessary or advisable for the proper and efficient operation of the public body's facilities.

(b)(1) Unless the interlocal agreement provides otherwise, a public body created under this subchapter shall have full authority to construct, own, manage, operate, finance, improve, extend, acquire, reconstruct, equip, sell, lease, contract concerning, deal in, dispose of, and maintain a consolidated waterworks system.

(2) The assets of the public body may be located inside and outside the jurisdictions of the public body's participating public agencies.

(c)(1) Unless the interlocal agreement provides otherwise, a public body created under this subchapter shall have full authority to fix, charge, and collect and from time to time change the rates for water and other goods and services provided by the public body.

(2) A public body shall have a reasonable time after its creation or after its expansion by the addition of a new participating public agency to equalize any differentials in water rates among similarly situated classes of customers.

(3) It shall be a complete defense to any suit or claim based on the charging of differential rates for similarly situated classes of customers that:

(A) Within one (1) year of the creation or expansion of the public body, an independent expert completes a study of rates charged customers that shows a differential in rates among similarly situated classes of customers located within the jurisdictions of the partici-

pating public agencies, and the public body equalizes rates among similarly situated classes of customers within ten (10) years of the date of the rate study; or

(B) Within one (1) year of the creation or expansion of the public body, an independent expert completes an engineering study of the water system infrastructure located within the jurisdiction of each participating public agency that identifies improvements needed to create a uniform infrastructure quality throughout the jurisdictions, rate differentials among otherwise similarly situated classes of customers are reasonably calculated to recover from customers located in the respective jurisdictions in which the improvements are made the costs incurred in making the improvements in such jurisdictions, and the public body equalizes rates among similarly situated classes of customers within ten (10) years after the date of the engineering study.

(d) The inability of a public body to rely upon either safe harbor defense set out in subdivisions (c)(3)(A) and (B) of this section shall not create any implication that the public body has failed to equalize any differentials in water rates among similarly situated classes of customers within a reasonable period of time after its creation or expansion.

History. Acts 2001, No. 982, § 1.

25-20-308. Out-of-area sales and services.

(a) Any public body created under this subchapter may:

(1) Extend its distribution system and provide water and services to any consumer located outside the jurisdictions of the public body's participating public agencies; and

(2) Sell surplus water to any municipality, improvement district, or other person engaged in the business of selling and distributing water to consumers, whether the municipality, improvement district, or other person is located within or outside the jurisdictions of the public body's participating agencies.

(b) Sales of water and extensions of services authorized under this section may be made at such rates and on such other terms as the board of commissioners may deem just and reasonable, and the rates need not be the same as the rates charged customers within the jurisdictions of the public body's participating public agencies.

History. Acts 2001, No. 982, § 1.

25-20-309. Eminent domain.

(a) Any public body created under this subchapter may acquire by the exercise of the power of eminent domain any real property that it may deem necessary for its purposes, in the manner prescribed in § 18-15-301 et seq. or § 18-15-401 et seq., or in the manner provided by any other statutory provisions under which one (1) of the public body's participating public agencies may exercise a power of eminent domain.

(b) In exercising the power of eminent domain, the public body shall have the right by its agents or employees to peacefully enter upon any lands, structures, or rights-of-way to make surveys, tests, and measurements thereon, but is liable for any damage that may result by reason of its acts.

History. Acts 2001, No. 982, § 1.

25-20-310. Improvements — Financing with bonds.

(a) Whenever any public body created under this subchapter shall own or operate a consolidated waterworks system and shall desire to construct improvements, betterments, and extensions thereto, it may issue revenue bonds under the provisions of this section to pay for them. The procedure for issuance of bonds shall be as provided in this section.

(b)(1) Bonds issued in accordance with this section shall be authorized by resolution of the board of commissioners.

(2) The bonds may be issued as registered bonds and may be exchangeable for bonds of another denomination or in another form.

(3) The bonds may:

- (A) Be in such form and denominations;
- (B) Have such date or dates;
- (C) Be stated to mature at such time or times;
- (D) Bear interest payable at such times and at such rate or rates;
- (E) Be payable at such places within or without the state;
- (F) Be subject to such terms of redemption in advance of maturity at such prices; and
- (G) Contain such terms and conditions,
all as the board of commissioners shall determine.

(4) The bonds shall have all the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration as set forth in this subsection.

(5) The authorizing resolution may contain any other terms, covenants, and conditions that the board of commissioners deems reasonable and desirable, including, without limitation, those pertaining to the:

- (A) Maintenance of various funds and reserves;
- (B) Nature and extent of any security for payment of the bonds;
- (C) Custody and application of the proceeds of the bonds;
- (D) Collection and disposition of revenues;
- (E) Investing for authorized purposes; and
- (F) Rights, duties, and obligations of the public body and the holders and registered owners of the bonds.

(c)(1) The authorizing resolution may provide for the execution of a trust indenture between the public body and any financial institution within or without the State of Arkansas.

(2) The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the board of commissioners, including, without limitation, those pertaining to the:

- (A) Maintenance of various funds and reserves;
- (B) Nature and extent of any security for the payment of the bonds;
- (C) Custody and application of the proceeds of the bonds;
- (D) Collection and disposition of revenues;
- (E) Investing and reinvesting of any moneys during periods not needed for authorized purposes; and
- (F) Rights, duties, and obligations of the public body and the holders and registered owners of the bonds.

(d)(1) Any authorizing resolution and trust indenture relating to the issuance and security of the bonds shall constitute a contract between the public body and holders and registered owners of the bonds.

(2) The contract and all covenants, agreements, and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of the contract, and the covenants, agreements, and obligations of the public body may be enforced by mandamus or other appropriate proceeding at law or in equity.

(e)(1) The resolution shall fix the minimum rate or rates for water to be collected prior to the payment of all of the bonds, with exceptions as may be provided in the resolution, and shall pledge the revenues derived from the consolidated waterworks system or any specified portion of the consolidated waterworks system for the purpose of paying the bonds and interest thereon.

(2) The rates to be charged for the services of the consolidated waterworks system or the specified portion of the consolidated waterworks system with revenues pledged to the payment of the bonds shall be sufficient to provide:

(A) For the payment of all principal of and interest on all bonds as and when due;

(B) For the operation and maintenance of the consolidated waterworks system or the specified portion of the consolidated waterworks system with revenues pledged to the payment of the bonds; and

(C) An adequate depreciation account for the consolidated waterworks system or the specified portion of the consolidated waterworks system with revenues pledged to the payment of the bonds.

(f)(1) The proceeds derived from the sale of the bonds shall be used solely for the purpose of:

(A) Making betterments, improvements, and extensions to the consolidated waterworks system owned and operated by the public body;

(B) Paying interest on the bonds during the period of construction of the betterments, improvements, and extensions;

(C) Establishing any necessary reserves for the bonds;

(D) Paying the costs of issuing the bonds; and

(E) Paying any other costs and expenditures of whatever nature incidental to the accomplishment of the betterments, improvements, and extensions.

(2) The terms "betterments", "improvements", and "extensions" include land, mains, pipelines, hydrants, meters, valves, standpipes,

storage tanks, storage basins, pumping tanks, intakes, wells, clear water wells, impounding reservoirs, lakes, watercourses, pumps, purification plants and units thereof, and filtration plants and units thereof, as well as all other real and personal property, buildings, structures, or other improvements or facilities as may be necessary or advisable for the proper and efficient operation of the public body's consolidated waterworks system.

(g)(1) Bonds issued under the provisions of this section shall be payable solely from revenues derived from the consolidated waterworks system or any specified portion of the consolidated waterworks system.

(2) The bonds shall not in any event constitute an indebtedness of, nor pledge the faith and credit of, the State of Arkansas or the participating public agencies within the meaning of any constitutional provisions or limitations.

(3) It shall be plainly stated on the face of each bond that it:

(A) Is issued under the provisions of this subchapter;

(B) Does not constitute an indebtedness of the State of Arkansas or the participating public agencies within any constitutional provisions or limitations; and

(C) Is not backed by the full faith and credit of the State of Arkansas or the participating public agencies.

(4) The bonds and the interest thereon shall be exempt from all taxation, state, county, and municipal. This exemption includes income taxation and inheritance taxation.

(h)(1) The bonds may be sold in such manner, either at public or private sale, and upon such terms as the board of commissioners shall determine to be reasonable and expedient for effectuating the purposes of the public body.

(2) The bonds may be sold at a price the board of commissioners may accept, including sale at discount.

(i)(1) The bonds shall be executed by manual or facsimile signature of the chair of the board of commissioners and the manual or facsimile signature of the secretary of the board of commissioners or any other officer of the public body authorized to do so by resolution of the board of commissioners.

(2) In case any of the officers whose signatures appear on the bonds shall cease to be the officers before delivery of the bonds, their signatures nevertheless shall be valid and sufficient for all purposes.

(3) Each bond shall be impressed or imprinted with the seal of the public body.

History. Acts 2001, No. 982, § 1.

25-20-311. Lien in favor of bondholders.

(a) The payment of the principal of bonds issued under this subchapter and the interest thereon may be secured by a lien on and security interest in the consolidated waterworks system or any specified portion of the consolidated waterworks system.

(b) It shall not be necessary to the perfection of the lien and pledge for such purposes that the trustee in connection with the bond issue or the holders of the bonds take possession of the collateral security.

(c) Subject to whatever restrictions may be contained in the resolution or indenture governing the bonds, any holder of bonds issued under the provisions of this subchapter may enforce either at law or in equity the mortgage lien and may compel by proper suit the performance of the duties of the officers of the issuing public body set forth in this subchapter.

(d) If there be default in the payment of the principal of or interest on any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer the consolidated waterworks system or the specified portion of the consolidated waterworks system pledged to the payment of the bonds on behalf of the public body, with power to charge and collect rates sufficient to provide for the payment of the bonds and the interest thereon and for the payment of the operating expenses and to apply the income and revenues in conformity with this subchapter and the resolution or indenture providing for the issuance of the bonds.

History. Acts 2001, No. 982, § 1.

25-20-312. Refunding bonds.

(a) Bonds may be issued for the purpose of refunding any obligations issued under this subchapter or otherwise. The refunding bonds may be combined with bonds issued under the provisions of § 25-20-310 into a single issue.

(b) When bonds are issued under this section for refunding purposes, the bonds may either be sold or delivered in exchange for the outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement thereof either at maturity or upon any authorized redemption date.

(c)(1) All bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this subchapter and shall have all the attributes of such bonds.

(2) The resolution or indenture under which the refunding bonds are issued may provide that any of the refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the obligations refunded thereby.

History. Acts 2001, No. 982, § 1.

25-20-313. Securing deposit of public funds.

Bonds issued under this subchapter shall be eligible to secure the deposit of public funds.

History. Acts 2001, No. 982, § 1.

25-20-314. No personal liability.

No commissioner or officer of the public body shall be liable personally for any reason arising from the issuance of bonds under this subchapter unless he or she shall have acted with a corrupt intent.

History. Acts 2001, No. 982, § 1.

25-20-315. Recreational use of property.

Any public body created under this subchapter shall have the same powers as a municipally owned waterworks system to use its properties for recreational purposes, subject to any restrictions applying to a municipally owned waterworks system, as set forth in § 14-234-401 et seq. Consequently, the board of commissioners of a public body created under this subchapter shall be an "operating authority" as defined in § 14-234-401, and any summons issued under § 14-234-401 et seq. shall be returnable to the municipal court of any municipality that is a participating public agency or is a municipality located within the jurisdiction of any participating public agency.

History. Acts 2001, No. 982, § 1.

25-20-316. Zoning exemption.

Any public body maintaining facilities in an area zoned subsequent to the construction of the facilities may add to, alter, expand, or change the facilities upon that land, or upon lands immediately adjacent thereto, without regard to the zoning regulation for the area, if the board of commissioners deems the action necessary for the proper operation of its consolidated waterworks system.

History. Acts 2001, No. 982, § 1.

25-20-317. Tax exempt status of property owned and income.

Each public body created under this subchapter will be performing functions and will be a public instrumentality of the participating public agencies. Accordingly, all properties at any time owned by the public body, and the income therefrom, shall be exempt from all taxation in the state.

History. Acts 2001, No. 982, § 1.

25-20-318. Immunity.

This subchapter does not abrogate or in any other manner affect the immunity of the participating public agencies. The immunity shall extend also to any public body created under this subchapter and to each commissioner, officer, and employee thereof.

History. Acts 2001, No. 982, § 1.

25-20-319. Franchise fees.

(a) Any participating public agency that is an Arkansas municipality or county, acting by ordinance or resolution of its governing body, may require a public body created under this subchapter to pay a reasonable franchise fee, upon which the public body may be permitted to occupy the streets, highways, or other public places within the jurisdiction of the public agency. The ordinance or resolution shall be deemed prima facie reasonable, provided that no franchise fee shall exceed ten percent (10%) of the public body's operating revenues that are attributable to gross income from water sales within the public agency's jurisdiction, unless agreed to by the public body or approved by the voters of the public agency.

(b) No public body created under this subchapter shall be a "public utility" within the meaning of § 14-200-101 et seq. or a "person, company, or corporation which has secured a franchise from any municipality" within the meaning of § 14-200-102.

(c) Any franchise fees charged under authority of this section shall be in addition to payments in lieu of taxes permitted by this subchapter.

History. Acts 2001, No. 982, § 1.

25-20-320. Payments in lieu of taxes.

(a)(1) A public body created under this subchapter shall make annual payments to the general fund of each participating public agency that is an Arkansas municipality or county, in lieu of taxes, in return for police, fire, and health protection and in return for administrative and other services furnished by the public agency. The payments shall be an operation and maintenance expense of the public body.

(2) In each calendar year the payments shall equal the amount the public agency would have received from the public body as real property taxes for the preceding calendar year, if the public body's real property located in the public agency's jurisdiction, whether owned or leased by the public body, had been privately owned and subject to tax by the public agency. For purposes of this computation, the public body's real property shall be deemed to have an assessed value equal to twenty percent (20%) of book value as reflected by the public body's usual accounting procedures.

(b) Payments in lieu of taxes made under authority of this section shall be in addition to any franchise fees permitted by this subchapter.

History. Acts 2001, No. 982, § 1.

25-20-321. Annual report and audit.

(a) Within the first ninety (90) days of each calendar year, each public body created under this subchapter shall make a written report

to the governing bodies of the participating public agencies concerning its activities for the preceding calendar year.

(b) Each report shall set forth a complete operating and financial statement covering its operation during the year, including, without limitation, an audit of the public body's revenues and expenses performed by an independent certified public accountant.

History. Acts 2001, No. 982, § 1.

25-20-322. Provisions supplemental and controlling.

This subchapter shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

History. Acts 2001, No. 982, § 1.

25-20-323. Construction.

This subchapter shall be liberally construed to accomplish its intent and purposes and shall be the sole authority required for the accomplishment of its purposes, and to this end it shall not be necessary to comply with the provisions of other laws relating to the issuance and sale of the bonds authorized by this subchapter. This subchapter shall be construed as an additional and alternative method for the issuance and sale of bonds.

History. Acts 2001, No. 982, § 1.

CHAPTER 21

**UNIFORM LAW TO OPPOSE FEDERAL
ENCROACHMENT ON STATE RIGHTS**

SECTION.

- 25-21-101. Study of existing federal legislation.
- 25-21-102. Study of proposed federal legislation.
- 25-21-103. Investigation of federal legislation on request of Senators or Representatives.

SECTION.

- 25-21-104. Appointment of Deputy or Assistant Attorney General.
- 25-21-105. Membership in interstate organization.
- 25-21-106. Title.

Preambles. Acts 1943, No. 166, contained a preamble which read: "Whereas, there has been, and is, a definite trend on the part of numerous federal bureaus to invade state boundaries and assume authority not provided in the federal laws which created them;

"Whereas, encroachments on the part of

certain federal bureaus are being made under the guise of war measures, when they have no direct connection with the war effort, but are merely creating a greater centralization of government and minimizing government by states;

"And, whereas, throughout the nation there is a rising resentment against un-

warranted federal invasion of state boundaries and encroachment on state rights by federal bureaus and bureaucrats, contrary to the spirit and the principles of the Constitution of the United States...."

25-21-101. Study of existing federal legislation.

In order to secure concerted action among the states to oppose federal encroachments upon the state powers, and to expedite the proper execution of the responsibility of the government in the war effort, it shall be the duty of the Attorney General to cooperate with the attorneys general of other cooperating states in making a study of existing federal legislation to determine whether, by the establishment of federal bureaus, boards, or commissions, or otherwise, such legislation has resulted in objectionable or harmful encroachments upon the normal field of state functions and powers, and, except during the war and insofar as the legislation is reasonably related to the conduct of the war to call to the attention of this state's Senators and Representatives in Congress all legislation which, in his opinion, is objectionable or harmful in this respect. He shall also furnish each such Senator and Representative a written statement of the reasons for his belief that such legislation is objectionable or harmful to the state, together with his suggestions for appropriate congressional legislation to remedy same.

History. Acts 1943, No. 166, § 1;
A.S.A. 1947, § 5-401.

25-21-102. Study of proposed federal legislation.

It shall also be the duty of the Attorney General to likewise cooperate with such other attorneys general in making studies and examinations of all now pending or hereafter proposed congressional legislation to determine whether the same may result in federal encroachments into the normal field of state legislation or state functions, or whether same is harmful or beneficial to the interests of the state or its citizens, and to advise the Senators and Representatives in writing of his opinion and views with respect thereto, together with his reasons therefor; and to suggest any amendments to any such pending or proposed legislation which the Attorney General deems appropriate or necessary to protect the interests of the state and its citizens.

History. Acts 1943, No. 166, § 2;
A.S.A. 1947, § 5-402.

25-21-103. Investigation of federal legislation on request of Senators or Representatives.

The Attorney General shall also make any reasonable or appropriate investigation or study of any existing or proposed federal legislation to determine its effect upon the state and its citizens whenever he is

requested so to do by any of this state's Senators or Representatives in Congress and report the result of such investigation or study.

History. Acts 1943, No. 166, § 3;
A.S.A. 1947, § 5-403.

25-21-104. Appointment of Deputy or Assistant Attorney General.

The Attorney General shall appoint a Deputy or Assistant Attorney General whose principal duty shall be to assist in the performance of the duties imposed by this chapter. The compensation of the Deputy or Assistant shall be paid out of the appropriation for the Attorney General's Office contained in the general appropriation act.

History. Acts 1943, No. 166, § 4;
A.S.A. 1947, § 5-404.

25-21-105. Membership in interstate organization.

The Attorney General and/or his said Deputy or Assistant is authorized to become a member of an organization now existing or hereafter formed, the membership consisting of the attorneys general of the various states, and/or their deputies or assistants, and the purpose of said organization being to bring about the joint or concerted action of said states to preserve in the states their normal powers, obligations, and functions, as provided by the Constitution of the United States. The Attorney General is authorized to pay, out of the bill of appropriations for conducting his office, this state's fair part or proportion of any proper expenses incurred by said organization in furtherance of the purposes of this chapter.

History. Acts 1943, No. 166, § 5;
A.S.A. 1947, § 5-405.

25-21-106. Title.

This chapter may be cited as the "Uniform Law to Oppose Federal Encroachments".

History. Acts 1943, No. 166, § 6;
A.S.A. 1947, § 5-406.

CHAPTER 22

GOVERNMENTAL WASTE ELIMINATION

SECTION.

25-22-101 — 25-22-108. [Repealed.]

Publisher’s Notes. Acts 1991, No. 343, § 7, provided: “The Governmental Waste Elimination Award Board created under Arkansas Code § 25-22-103 is abolished”.

25-22-101 — 25-22-108. [Repealed.]

Publisher’s Notes. This chapter was repealed by Acts 1991, No. 343, § 7. The chapter was derived from the following sources:

| | |
|-------------------------------------|--|
| 25-22-101. Acts 1987, No. 526, § 1. | 25-22-104. Acts 1987, No. 526, § 3. |
| 25-22-102. Acts 1987, No. 526, § 2. | 25-22-105. Acts 1987, No. 526, §§ 3, 5, 7. |
| 25-22-103. Acts 1987, No. 526, § 5. | 25-22-106. Acts 1987, No. 526, § 4. |
| | 25-22-107. Acts 1987, No. 526, § 6. |
| | 25-22-108. Acts 1987, No. 526, § 7. |

CHAPTER 23
QUALITY MANAGEMENT BOARD

SECTION.
25-23-101 — 25-23-104. [Repealed.]

Effective Dates. Acts 1991, No. 1166, § 13: Apr. 10, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that there is a need to implement quality management in state government and provide a method to document and analyze quality management projects. Therefore, to ensure that state government services are provided in an efficient manner, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

25-23-101 — 25-23-104. [Repealed.]

A.C.R.C. Notes. Acts 2001, No. 783, § 1, provided: “The following are hereby abolished: (1) The Advisory Committee on Accountability; (2) The Crowley’s Ridge Trail Commission; (3) The Advisory Council to the Arkansas Natural Heritage Commission of the Department of Arkansas Heritage; (4) The Advisory Board for Director of the Arkansas High Technology Training Center; (5) The Low-Level Radioactive Waste Advisory Group; (6) The Arkansas Medal of Honor Commission; (7) The Quality Management Board; and (8) The Arkansas Task Force on Timber Land Assessment.”

The repeal of § 25-23-103 has been deemed to supersede its amendment by Acts 2001, No. 1288, § 23. Acts 2001, No. 1288, § 23 amended § 25-23-103(b) to read as follows: “(b) The board shall consist of seven (7) members: (1)(A) Four (4) members of the board shall be appointed by the Governor. (B) Their successors shall be appointed for terms of three (3) years; (2) One (1) member of the board shall be appointed from the recommendation of the Arkansas State Employees’ Association; (3) One (1) member of the board shall be appointed by and serve at the pleasure of the Speaker of the House; (4) One (1) member of the board shall be appointed by and serve at the pleasure of the President Pro Tempore of the Senate; (5) The Chief Fiscal Officer of the State shall serve as an ex officio member of the board; (6) Members of the board appointed by the Governor shall serve at the pleasure of the Governor; and (7) Should a vacancy occur on the board, the vacancy shall be filled in the same manner as the

original appointment within thirty (30) days of occurrence.”

Publisher's Notes. These sections, concerning the Quality Management Board, were repealed by Acts 2001, No. 783, § 2. The sections were derived from the following sources:

25-23-102. Acts 1991, No. 1166, § 2.

25-23-103. Acts 1991, No. 1166, §§ 3, 4; 1993, No. 1038, § 1; 2001, No. 1288, § 23.

25-23-104. Acts 1991, No. 1166, § 4.

CHAPTER 24

MARTIN LUTHER KING, JR. COMMISSION

SECTION.

25-24-101. Creation — Members.

25-24-102. Duties.

SECTION.

25-24-103. Powers.

Effective Dates. Acts 1997, No. 250, § 258; Feb. 24, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared

to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

25-24-101. Creation — Members.

(a) There is hereby created a commission to be known as the “Martin Luther King, Jr. Commission”.

(b) The commission shall consist of twenty-six (26) members:

(1) A representative of the Governor's Office, to be appointed by the Governor and to serve at the pleasure of the Governor;

(2) Four (4) members to be appointed by and serve at the pleasure of the President Pro Tempore of the Senate;

(3) Four (4) members to be appointed by and serve at the pleasure of the Speaker of the House of Representatives;

(4) Thirteen (13) members of the general public, to be appointed by the Governor, who shall be residents of the state, shall represent the various geographical areas of the state and various civic, social, religious, educational, labor, business, and artistic organizations, and shall be committed to resolving conflict and to upholding the humanitarian philosophy of Dr. King; and

(5) Four (4) members of the general public, to be appointed by the Governor, who shall be residents of the state between the ages of sixteen (16) and nineteen (19), no more than one (1) of whom shall reside in the same congressional district.

(c)(1) Members representing the general public appointed by the Governor shall serve for a term of three (3) years.

(2) No member of the commission shall serve more than two (2) consecutive terms.

(3) Vacancies in the membership shall be filled for the balance of the unexpired term in the same manner as the original appointments were made.

(d)(1) The Governor shall designate one (1) cochair of the commission from the general public membership.

(2) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall jointly designate one (1) cochair of the commission.

(e) Members of the commission shall be subject to removal from office by the cochairs when the actions or condition of a member shall be considered as sufficient cause for removal.

(f) A majority of the commission shall constitute a quorum for the transaction of business.

(g) Members of the commission shall serve without compensation but, to the extent moneys are appropriated therefor, may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1993, No. 1216, § 1; 1997, No. 250, § 242; 1997, No. 968, § 1; 2001, No. 1288, § 24.

Publisher's Notes. Acts 1993, No. 1216, § 1, provided, in part: "At the first meeting of the commission, the members of the general public shall draw lots for terms so that four (4) members will serve for a term of one (1) year; four (4) members will serve for a term of two (2) years; and four (4) members will serve for a term of three (3) years."

Amendments. The 1997 amendment by No. 250 rewrote the subsection designated herein as (g).

The 1997 amendment by No. 968 substituted "twenty-six (26) members" for "twenty-five (25) members" in (b); substituted "Thirteen (13) members" for "Twelve (12) members" in (b)(4); added (d)(2); substituted "one (1) cochair" for "two (2) co-

chairs" in (d)(1); inserted present (e); and redesignated former (e) and (f) as present (f) and (g).

The 2001 amendment, in (b)(2), deleted "of the Senate" following "Four (4) members," inserted "and serve at the pleasure of" preceding "the President," and deleted "no more than two (2) of whom shall be from the same political party" at the end of the subsection; in (b)(3), deleted "of the House of Representatives" preceding "to be," inserted "and serve at the pleasure of" preceding "the Speaker," and deleted "no more than two (2) of whom shall be from the same political party" at the end of the subsection; deleted former (c)(1) and redesignated the following subsections accordingly; inserted "appointed by the Governor" following "public" in present (c)(1); and deleted "from the General Assembly" following "commission" in (d)(2).

25-24-102. Duties.

The Martin Luther King, Jr. Commission shall have the following duties:

(1) To promote racial harmony, understanding, respect, and goodwill among all citizens;

(2) To promote principles of nonviolence;

(3) To promote among the people of Arkansas, by appropriate activities, both awareness and appreciation of the civil rights movement and advocacy of the principles and legacy of Martin Luther King, Jr.;

(4) To develop, coordinate, and advise the Governor and the General Assembly of appropriate ceremonies and activities throughout the state relating to the observance of Martin Luther King, Jr.'s birthday; and

(5) To receive donations and contributions from individuals and public and private organizations in order to carry out its responsibilities.

History. Acts 1993, No. 1216, § 2.

25-24-103. Powers.

The Martin Luther King, Jr. Commission may employ such staff and consultants as authorized by law and fix their compensation, duties, authority, and responsibilities.

History. Acts 1993, No. 1216, § 3.

CHAPTER 25

COMMISSION FOR ARKANSAS' FUTURE

SECTION.

25-25-101 — 25-25-104. [Repealed.]

25-25-101 — 25-25-104. [Repealed.]

A.C.R.C. Notes. The 1997 amendment of § 25-25-101 by Acts 1997, No. 1357 substituted "President Pro Tempore of the Senate" for "Senate Committee on Committees" in (a)(4). The amendment of § 25-25-101 by Acts 1997, No. 1357 appears to be ineffective because of the repeal of § 25-25-101 by Acts 1997, No. 250.

Publisher's Notes. This chapter was repealed by Acts 1997, No. 250, § 243 and No. 914, § 31. The chapter was derived from the following sources:

25-25-101. Acts 1989, No. 810, §§ 1, 5; 1993, No. 488, §§ 1, 2; 1997, No. 1357, § 4.

25-25-102. Acts 1989, No. 810, §§ 6, 10; 1993, No. 488, §§ 3, 5.

25-25-103. Acts 1989, No. 810, §§ 7, 9; 1993, No. 488, § 4.

25-25-104. Acts 1989, No. 810, § 8.

Acts 1989, No. 810 was first codified in 1993, contemporaneously with Acts 1993, No. 488.

CHAPTER 26

INFORMATION TECHNOLOGY

SUBCHAPTER.

1. [REPEALED.]

2. INFORMATION TECHNOLOGY ACCESS FOR THE BLIND.

SUBCHAPTER 1 — INFORMATION SYSTEMS

SECTION.
25-26-101 — 25-26-106. [Repealed.]

25-26-101 — 25-26-106. [Repealed.]

A.C.R.C. Notes. The amendments to § 25-26-103 by Acts 1997, No. 250, effective Feb. 24, 1997, and Acts 1997, No. 1354, effective Apr. 14, 1997, are deemed to be superseded by the repeal of this subchapter by Acts 1997, No. 914, effective July 1, 1997.

As originally enacted by Acts 1995, No. 737, Chapter 26 was not divided into subchapters. However, subsequent to the enactment of Acts 1999, No. 1227, the Arkansas Code Revision Commission determined that, for codification purposes, it will be necessary to reorganize Chapter 26. Accordingly, Acts 1999, No. 1227, §§ 1—6, were codified in new subchapter 2. Newly designated subchapter 1 was listed as a repealed subchapter.

Publisher's Notes. This subchapter was repealed by Acts 1997, No. 914, § 31. The subchapter was derived from the following sources:

25-26-101. Acts 1995, No. 737, § 1.
25-26-102. Acts 1995, No. 737, § 2.
25-16-103. Acts 1995, No. 737, § 8; 1997, No. 250, § 244; 1997, No. 1354, § 44.
25-26-104. Acts 1995, No. 737, § 9.
25-26-105. Acts 1995, No. 737, § 11.
25-26-106. Acts 1995, No. 737, § 12.
Acts 1995, No. 737, § 1, is also codified as § 10-3-1701.

For present law, see § 25-4-101 et seq.

As to the resolution of conflicting legislation affecting a section, see §§ 1-2-207 and 1-2-303.

SUBCHAPTER 2 — INFORMATION TECHNOLOGY ACCESS FOR THE BLIND

SECTION.
25-26-201. Findings and policy.
25-26-202. Definitions.
25-26-203. Assurance of nonvisual access.

SECTION.
25-26-204. Procurement requirements.
25-26-205. Implementation.
25-26-206. Action for injunction.

Effective Dates. Acts 1999, No. 1227, § 7: effective and in force from the date of enactment. Acts 1999, No. 1227 was

signed by the Governor on Apr. 8, 1999, and became effective July 30, 1999.

25-26-201. Findings and policy.

- (a) The General Assembly finds that:
- (1) The advent of the information age throughout the United States and around the world has resulted in lasting changes in information technology;
- (2) Use of interactive visual display terminals by state and state-assisted organizations is becoming a widespread means of access for employees and the public to obtain information available electronically, but nonvisual access, whether by speech, braille, or other appropriate means has been overlooked in purchasing and deploying the latest information technology;

(3) Presentation of electronic data solely in a visual format is a barrier to access by individuals who are blind or visually impaired, preventing them from participating on equal terms in crucial areas of life such as education and employment;

(4) Alternatives, including both software and hardware adaptations, have been created so that interactive control of computers and use of the information presented is possible by both visual and nonvisual means; and

(5) The goals of the state in obtaining and deploying the most advanced forms of information technology properly include universal access so that segments of society with particular needs, including, but not limited to, individuals unable to use visual displays, will not be left out of the information age.

(b) It is the policy of the State of Arkansas that all programs and activities which are supported in whole or in part by public funds shall be conducted in accordance with the following principles:

(1) Individuals who are blind or visually impaired have the right to full participation in the life of the state, including the use of advanced technology which is provided by the state or state-assisted organizations for use by employees, program participants, and members of the general public; and

(2) Technology purchased in whole or in part with funds provided by the state to be used for the creation, storage, retrieval, or dissemination of information and intended for use by employees, program participants, and members of the general public shall be accessible to and usable by individuals who are blind or visually impaired.

History. Acts 1999, No. 1227, § 1.

25-26-202. Definitions.

For purposes of this subchapter:

(1) "Access" means the ability to receive, use, and manipulate data and operate controls included in information technology;

(2) "Blind or visually impaired individual" means an individual who:

(A) Has a visual acuity of twenty/two hundred ($20/200$) or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;

(B) Has a medically indicated expectation of visual deterioration; or

(C) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;

(3) "Covered entity" means the state or any state-assisted organization;

(4) "Information technology" means all electronic information processing hardware and software, including telecommunications;

(5) "Nonvisual" means synthesized speech, braille, and other output methods not requiring sight;

(6) "State" means the state or any of its departments, agencies, public bodies, or other instrumentalities;

(7) "State-assisted organization" means a college, nonprofit organization, person, political subdivision, school system, or other entity supported in whole or in part by state funds; and

(8) "Telecommunications" means the transmission of information, images, pictures, voice or data by radio, video, or other electronic or impulse means.

History. Acts 1999, No. 1227, § 2.

25-26-203. Assurance of nonvisual access.

(a) In general, the head of each covered entity shall ensure that information technology equipment and software used by employees, program participants, or members of the general public:

(1) Provide blind or visually impaired individuals with access, including, but not limited to, interactive use of the equipment and services which is equivalent to that provided to individuals who are not blind or visually impaired;

(2) Are designed to present information, including, but not limited to, prompts used for interactive communications in formats intended for both visual and nonvisual use; and

(3) Have been purchased under a contract which includes the technology access clause required pursuant to § 25-26-204.

History. Acts 1999, No. 1227, § 3.

25-26-204. Procurement requirements.

(a) The technology access clause specified in § 25-26-203 shall be developed by the Department of Information Systems and shall require compliance with nonvisual access standards established by the state. The clause shall be included in all contracts for the procurement of information technology by, or for the use of, entities covered by this subchapter on or after July 30, 1999.

(b) The nonvisual access standards established by the state pursuant to subsection (a) of this section shall include such specifications as are necessary to fulfill the assurances in § 25-26-203 and shall include the following minimum specifications:

(1) That effective, interactive control and use of the technology, including, but not limited to, the operating system, applications programs, and format of the data presented, is readily achievable by nonvisual means;

(2) That the technology equipped for nonvisual access must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;

(3) That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and

(4) That the technology for nonvisual access must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

History. Acts 1999, No. 1227, § 4.

25-26-205. Implementation.

(a) For the purpose of assuring the effective phasing in of nonvisual access technology procurement, the head of any covered entity:

(1) May not approve exclusion of the technology access clause from any contract with respect to:

(A) The compatibility of standard operating systems and software with nonvisual access software and peripheral devices; or

(B) The initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software; or

(2) May approve, with respect to nonvisual access software or peripheral devices obtained during the three-year period beginning upon the date of enactment of this act, exclusion of such technology access clause to the extent that the cost of such software or devices for the covered entity exceeds:

(A) Fifty thousand dollars (\$50,000) for the first year;

(B) One hundred thousand dollars (\$100,000) for the second year; and

(C) Two hundred and fifty thousand dollars (\$250,000) for the third year.

(b) Nothing in this section requires the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

(c) Notwithstanding the provisions of subsection (b) of this section, the applications programs and underlying operating systems, including, but not limited to, the format of the data used for the manipulation and presentation of information, shall permit the installation and effective use of nonvisual access software and peripheral devices.

(d) Compliance with this subchapter in regard to information technology purchased prior to July 30, 1999, shall be achieved at the time of procurement of an upgrade or replacement of the existing equipment or software.

History. Acts 1999, No. 1227, § 5.

Meaning of "this act". Acts 1999, No. 1227, codified as §§ 25-26-201 — 25-26-206.

Publisher's Notes. In reference to the

phrase "upon the date of enactment of this act" in subdivision (a)(2) of this section, Acts 1999, No. 1227, was signed by the Governor on Apr. 8, 1999, and became effective on July 30, 1999.

25-26-206. Action for injunction.

- (a) A person injured by a violation of this subchapter may maintain an action for injunctive relief to enforce the terms of this subchapter.
- (b) The limitation period for civil action is as follows:
 - (1) Any such action shall be commenced within four (4) years after the cause of action accrues; and
 - (2) For the purposes of this subsection, a cause of action for a continuing violation accrues at the time of the latest violation.

History. Acts 1999, No. 1227, § 6.

CHAPTER 27
ARKANSAS INFORMATION NETWORK

| | |
|-------------------------|-----------------------------|
| SECTION. | SECTION. |
| 25-27-101. Title. | 25-27-104. Duties. |
| 25-27-102. Definitions. | 25-27-105. Network manager. |
| 25-27-103. Board. | |

Effective Dates. Acts 1997, No. 914, § 35: July 1, 1997. Emergency clause provided: “It is found and determined by the Eighty-First General Assembly that continuing advances in the field of communications and information technology make it necessary to establish a Department of Information Systems within the Executive Department of Government to better coordinate and utilize such technology; and that in the event of an extension of

the Regular Session, the delay in the effective date of this act beyond July 1, 1997, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1997.”

25-27-101. Title.

This chapter may be cited as and shall be known as the “Information Network of Arkansas Act”.

History. Acts 1995, No. 1139, § 1.

25-27-102. Definitions.

- As used in this chapter:
- (1) “Agency” means any agency, board, commission, public instrumentality, political subdivision, or any of the foregoing entities acting on behalf of the State of Arkansas which store, gather, or generate public information;
 - (2) “Gateway system” means any centralized electronic information system by which public information shall be disseminated or collected via the Internet, dial-in modem, continuous link, or other electronic medium;

(3) "I.N.A." means the Information Network of Arkansas, or, if the Information Network of Arkansas shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by this chapter to the Information Network of Arkansas shall be given by law;

(4) "Network manager" means the entity or person designated by contractual obligation to establish, develop, operate, maintain, and expand the gateway system on behalf of the Information Network of Arkansas;

(5) "Public information" means any information stored, gathered, or generated in electronic or magnetic form by an agency, its agencies, or instrumentalities, which is included within the information deemed to be public pursuant to the Freedom of Information Act of 1967, § 25-19-101 et seq., and other provisions of the Arkansas Code providing for release of information to the public at large to specified groups or recipients; and

(6) "User association" means an association:

(A) Whose membership is identifiable by regular payment of association dues and regularly maintained membership lists;

(B) Which is registered with the Secretary of State as an Arkansas corporation;

(C) Which exists for the purpose of advancing the common occupation or profession of its membership; and

(D) Which, after the appointment of the initial board of the Information Network of Arkansas, regularly promotes and encourages the subscription of its members to the gateway system developed by the Information Network of Arkansas.

History. Acts 1995, No. 1139, § 2; **Amendments.** The 1999 amendment 1999, No. 538, § 1. rewrote (1), (2), (4) and (5).

25-27-103. Board.

(a) There is created the Information Network of Arkansas, a public instrumentality carrying out an essential government function, which shall be governed by a board consisting of twelve (12) voting members, as follows:

(1) The President of the Arkansas Science and Technology Authority, or the president's designee;

(2) The Secretary of State, or the Secretary of State's designee;

(3) The Director of the Department of Finance and Administration, or the director's designee;

(4) Two (2) members, or their designees, who are chief executive officers of agencies of the executive branch other than the Department of Finance and Administration and the Department of Information Systems, shall be appointed by the Governor;

(5)(A)(i)(a) Four (4) members from user associations initially selected by the Governor shall be appointed by the Governor from a list of three (3) names submitted by each user association.

(b) Thereafter, the board shall submit a list of at least three (3) names per position, based on the recommendations of user associations.

(ii) No two (2) members appointed pursuant to this subdivision (a)(5) shall be members of the same user association.

(B) Such members shall serve staggered three-year terms;

(6)(A)(i) One (1) member appointed by the Governor from a list of three (3) names of public library directors submitted by the President of the Arkansas Public Library Association.

(ii) Following the initial appointment hereunder, the list shall be composed of librarians of public libraries which subscribe to the Information Network of Arkansas.

(B) The member shall serve a three-year term;

(7)(A) One (1) member appointed by the Governor from a list of three (3) names submitted by the Arkansas Bar Association.

(B) The member shall serve a three-year term; and

(8) The Director of the Department of Information Systems, or the director's designee.

(b)(1) The board shall annually elect one (1) member from the board as chair of the board.

(2) The board may also elect a vice chair and a secretary.

(c)(1) Six (6) members of the board shall constitute a quorum, and the affirmative vote of six (6) members shall be necessary for any action taken by the board.

(2) No vacancy in the membership of the board shall impair the right of a quorum to exercise all rights and perform all the duties of the board.

(d) The board shall meet at least semiannually.

(e) Members of the board shall serve without compensation but shall be eligible to receive reimbursement for mileage and reimbursement for expenses in accordance with § 25-16-902.

History. Acts 1995, No. 1139, § 3; 1997, No. 914, § 25; 1999, No. 538, § 2.

A.C.R.C. Notes. As enacted, subdivision (b)(1) began: "The Governor shall select the initial chairperson from the board membership. Thereafter ..."

Amendments. The 1997 amendment, in (a), substituted "twelve (12) members" for "eleven (11) voting members" and deleted "and one (1) nonvoting member" following "members"; and substituted "Information Systems" for "Computer Services, who shall serve as a nonvoting member" in (a)(8).

The 1999 amendment inserted "voting" in the introductory paragraph in (a); substituted "Information Systems" for "Computer Services" in (a)(4); deleted "staggered" following "serve a" in (a)(6)(B) and (a)(7)(B); added "or the director's designee" in (a)(8); deleted "the" following "exercise all" in (c)(2); added "but shall be eligible to receive reimbursement for mileage and reimbursement for expenses in accordance with § 25-16-902" in (e); and made stylistic changes.

25-27-104. Duties.

(a) The Information Network of Arkansas shall have the following duties:

(1) To develop and implement an electronic gateway system to provide electronic access to members of the public to public information and to develop, implement, and promote the use of electronic commerce and digital signature applications within the state in cooperation with the Department of Information Systems;

(2) To provide appropriate oversight of the network manager;

(3) To establish charges for the services provided by the Information Network of Arkansas;

(4) To explore ways of expanding the amount and kind of public information provided, increasing the utility and form of the public information provided, and implement such changes as required to be consistent with the provisions of this chapter;

(5) To explore ways of improving citizen and business access to public information and, where appropriate, implementing such changes;

(6) To explore ways of expanding a gateway system and its services to citizens and businesses by providing add-on services to the public, such as access to other for-profit information databases, electronic mail, and calendaring;

(7) To serve in an advisory capacity to the Department of Finance and Administration, the Department of Information Systems, and other state agencies regarding the dissemination to and collection of state data for the citizens and businesses of Arkansas;

(8) To seek advice from the general public, its subscribers, professional associations, academic groups, and institutions and individuals with knowledge or interest in computer networking, electronic mail, public information access, gateway services, add-on services, and electronic filing of information; and

(9) To accept gifts, donations, and grants for the support of a gateway system in Arkansas.

(b)(1) All state agencies shall participate with the Information Network of Arkansas in providing assistance as may be requested for the achievement of its purpose.

(2) Services and information to be provided by any agency shall be specified pursuant to a contract between the Information Network of Arkansas and such an agency.

(3) Agencies may contract to recover from the Information Network of Arkansas costs incurred by providing such assistance to the Information Network of Arkansas.

(4) The Information Network of Arkansas shall cooperate with the Department of Information Systems to fulfill the purposes of the Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

History. Acts 1995, No. 1139, § 4; 1999, No. 538, § 3.

Amendments. The 1999 amendment rewrote (a)(1) through (a)(4); deleted “expanding the base of users who access public information” following “public in-

formation” in (a)(5); substituted “the public” for “subscribers” in (a)(6); rewrote (a)(7); substituted “participate” for “cooperate” in (b)(1); added (b)(4); and made stylistic changes.

25-27-105. Network manager.

(a)(1) The Information Network of Arkansas shall contract with a network manager and shall use a competitive bid process after developing, in consultation with the Department of Information Systems, criteria and specifications for such a network manager and his or her duties.

(2)(A) The Information Network of Arkansas may negotiate and enter into a contract with the network manager.

(B) The contract shall specify the duties and responsibilities of the network manager and shall also include any other terms necessary to the agreement.

(b) The network manager shall:

(1) Direct and supervise the day-to-day operations and expansion of the gateway system, including the initial phase of operations necessary to make the gateway system operational;

(2) Attend meetings of the Information Network of Arkansas;

(3) Keep a record of all gateway, network, and related operations of the Information Network of Arkansas the records shall be the property of the Information Network of Arkansas;

(4) Maintain and be a custodian of all financial and operational records, documents, and papers filed with the Information Network of Arkansas;

(5) Update and revise on a yearly basis the business plan of the Information Network of Arkansas in consultation with and under the direction of the Information Network of Arkansas;

(6) Submit to the Information Network of Arkansas quarterly financial reports, an annual audit, an annual report, and any other information requested by the Board of the Information Network of Arkansas; and

(7) Perform other such activities or services as requested or authorized by the Information Network of Arkansas consistent with the provisions of this chapter.

(c) The Department of Information Systems may provide to the Information Network of Arkansas such staff and other assistance under contract.

History. Acts 1995, No. 1139, § 5; 1999, No. 538, § 4.

Amendments. The 1999 amendment, in (a)(1), substituted “contract with” for “hire” and “Information Systems” for “Computer Services”; substituted “duties

and responsibilities” for “duties, responsibilities, and compensation” in (a)(2)(B); added (b)(7); made related changes in (b)(5) and (b)(6); and substituted “Information Systems” for “Computer Services” in (c).

CHAPTER 28**ASSESSMENT COORDINATION DEPARTMENT**

SECTION.

- 25-28-101. Creation — Director — Organization — Personnel.
25-28-102. Transfer.
25-28-103. Other authority.
25-28-104. Administrative Procedure Act.

SECTION.

- 25-28-105. Compliance with other laws.
25-28-106. Legislative intent.
25-28-107. Requirements of Director of the Assessment Coordination Department.

Effective Dates. Acts 1997, No. 436, § 10; July 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the duties of the Assessment Coordination Division are of critical importance to the administration of the Arkansas ad valorem tax system, that these duties may be performed more efficiently within a separate Department which is responsible only for the administration of ad valorem taxes and that the provisions of this Act are of critical importance to preserve and improve the efficient administration of the tax laws of the State of Arkansas. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1997."

Acts 1999, No. 1377, § 12; July 1, 1999.

Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

25-28-101. Creation — Director — Organization — Personnel.

- (a) There is created the Assessment Coordination Department.
- (b)(1) The executive head of the department shall be the Director of the Assessment Coordination Department.
- (2) The director shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.
- (c) The department shall consist of the divisions which may be necessary to fulfill its purposes and which may be created by law and placed under the department.
- (d)(1) The director shall appoint the heads of the respective divisions.
- (2) All personnel of the department shall be employed by and shall serve at the pleasure of the director.
- (3) However, nothing in this section shall be so construed as to reduce any right which an employee of the department shall have under any civil service or merit system.

(e)(1) Each division of the department shall be under the direction, control, and supervision of the director.

(2) The director may delegate his or her functions, powers, and duties to the various divisions of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

History. Acts 1997, No. 436, § 1.

25-28-102. Transfer.

(a) The Assessment Coordination Division of the Arkansas Public Service Commission is transferred by a type 2 transfer as provided in § 25-2-105 to the Assessment Coordination Department.

(b) For purposes of this subchapter, the Assessment Coordination Department shall be considered a principal department established by Acts 1971, No. 38.

History. Acts 1997, No. 436, § 2.

25-28-103. Other authority.

(a) The Arkansas Public Service Commission shall retain all of its statutory authority, powers, duties, and functions regarding assessment and equalization of properties of public utilities and public carriers.

(b) The Tax Division of the Arkansas Public Service Commission shall retain all of the statutory authority, powers, duties, and functions conferred on the division by law or assigned to the division by the commission.

(c) Any and all other statutory authority, powers, duties, functions, records, property, and funds administered or provided by other support divisions within the commission or by the commission for the Assessment Coordination Division shall be transferred by a type 2 transfer as provided in § 25-2-105 to the Assessment Coordination Department.

(d) Any and all other statutory authority, powers, duties, and functions of the commission regarding assessment and equalization of properties and the administration of the tax laws of this state not specifically retained by the commission or the Tax Division of the Arkansas Public Service Commission in this chapter shall be transferred by a type 2 transfer as provided in § 25-2-105 to the Assessment Coordination Department.

(e) Any and all other prescribed powers, duties, and functions of the commission regarding assessment and equalization of properties and the administration of the tax laws of this state not specifically retained by the commission or the Tax Division of the Arkansas Public Service Commission in this chapter, including rulemaking and regulation; promulgation of rules, rates, regulation and standards; and the rendering of findings, orders, and adjudications are transferred by a type 2

transfer as provided in § 25-2-105 to the Director of the Assessment Coordination Department.

History. Acts 1997, No. 436, § 3.

25-28-104. Administrative Procedure Act.

The Assessment Coordination Department shall be subject to the Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1997, No. 436, § 4.

25-28-105. Compliance with other laws.

Disbursement of funds authorized by this chapter shall be limited to the appropriation for the agency being transferred and funds made available by law for the support of such appropriations. The restrictions of the Arkansas Procurement Law, § 19-11-201, the General Accounting and Budgetary Procedures Law, § 19-4-101, the Revenue Stabilization Law, § 19-5-101 et seq., the Regular Salary Procedures and Restrictions Act, § 21-5-101, or their successors, and other fiscal control laws of this state, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of those funds.

History. Acts 1997, No. 436, § 5.

25-28-106. Legislative intent.

It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations transferred or referred to in this subchapter shall be in compliance with the stated reasons for which this subchapter was adopted, as evidenced by the agency requests, executive recommendations and legislative recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Legislative Council or Joint Budget Committee which relate to its passage and adoption.

History. Acts 1997, No. 436, § 6.

25-28-107. Requirements of Director of the Assessment Coordination Department.

From and after July 1, 2000, the Director of the Assessment Coordination Department shall meet the qualifications required for certification or licensure as a Level 4 Appraiser in Arkansas, provided that the formal course work was or is satisfactorily completed in another state. At the time of appointing the director, the Governor shall include in the appointment document a statement that the appointee meets the qualifications prescribed by law.

History. Acts 1999, No. 1377, § 6.

CHAPTER 29

ARKANSAS DEAF AND HEARING IMPAIRED TELECOMMUNICATIONS SERVICES CORPORATION

SECTION.

- 25-29-101. Creation — Board of directors.
- 25-29-102. Board of directors — Attendance at meetings required.
- 25-29-103. Assessment on local exchange service providers.
- 25-29-104. Powers and duties.
- 25-29-105. Staff — Real property — Debt.
- 25-29-106. Corporate offices.

SECTION.

- 25-29-107. Annual audit.
- 25-29-108. Articles of incorporation.
- 25-29-109. Purchase of telecommunications services.
- 25-29-110. Annual report.
- 25-29-111. Section 12 companies.
- 25-29-112. Effect of chapter on Acts 1995, No. 501.

Cross References. Telecommunications devices, § 20-79-401 et seq.

Effective Dates. Acts 1997, No. 1080, § 15: Apr. 3, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that the deaf and hearing impaired citizens of this state have inadequate access to telecommunications services; that this act will enhance the delivery of telecommunications services to the deaf and hearing impaired citizens of this state, and that this act should go into effect as soon as possible.

Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

CASE NOTES

Cited: GTE Ark., Inc. v. Arkansas Pub. Serv. Comm’n, 60 Ark. App. 288, 961 S.W.2d 792 (1998).

25-29-101. Creation — Board of directors.

(a) There is hereby created the Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation.

(b) The corporation shall be governed by a seven-member board of directors appointed by the Governor as follows:

(1) Three (3) shall be representatives of the deaf and hearing-impaired community; and

(2) Four (4) shall be representatives of Arkansas local exchange carriers.

(c) The Governor shall choose one (1) name from a list of three (3) names submitted by representatives of the deaf and hearing-impaired

community and one (1) name from a list of three (3) names submitted by representatives of Arkansas local exchange carriers.

(d) The initial appointments shall be for such terms as will result in two (2) serving a one-year term, two (2) serving a two-year term, and three (3) serving a three-year term. All successors shall serve three-year terms.

(e) The Governor shall designate one (1) of the board members to preside over the initial meeting of the board, at which meeting the board shall elect a president, a secretary, and such other officers as it deems appropriate.

(f) Members of the board shall serve without compensation but may be reimbursed for reasonable expenses, except that no corporate money shall be used for out-of-state travel expenses.

(g) All vacancies on the board shall be filled in the same manner as the original appointments.

History. Acts 1997, No. 1080, § 1; **Amendments.** The 1999 amendment 1999, No. 1583, § 1. rewrote (c).

25-29-102. Board of directors — Attendance at meetings required.

(a) In order to ensure broad representation and a quorum, all members of the Board of Directors of the Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation have a responsibility to attend all regular or special meetings of the board.

(b) A board member shall be subject to removal from the board in the event the member shall fail to present to the Governor a satisfactory excuse for his or her absence. Unexcused absences from three (3) successive regular meetings without attending any intermediary called special meetings shall constitute sufficient cause for removal.

(c) Removal of board members shall be in accordance with the following:

(1)(A) Within thirty (30) days after each regular board meeting, the secretary of the board shall give written notice to the Governor of any member who has been absent from three (3) successive regular meetings without attending any intermediary called special meetings.

(B) The secretary's notice to the Governor shall include a copy of all meeting notices and attendance records for the past year.

(C) Failure by the secretary to submit the notices and documentation required by this chapter shall be considered cause for removal by the Governor in accordance with the procedures set forth at § 25-17-210;

(2) Within sixty (60) days after receiving the notice and supporting documentation from the secretary, the Governor shall notify, in writing, the board member of his or her intent to remove the member for cause. This notice shall suffice for the notice required in § 25-17-210(a);

(3) Within twenty (20) days after the date of the Governor's notice, the board member may request an excused absence as provided by this

chapter or may file with the Governor's office notice that the member disputes the attendance records and the reasons therefor;

(4) The Governor shall grant an excuse for illness of the member when verified by a written sworn statement by the attending physician or other proper excuse as determined by the Governor; and

(5) If no rebuttal is received or other adequate documentation submitted within twenty (20) days after the date of the Governor's notice, the board member may be removed in accordance with the provisions set forth in § 25-17-210.

(d) Any board member referred to the Governor because of excessive absences under the provisions of this chapter shall not be entitled to any expense reimbursement for travel to or attendance at any subsequent meeting until the board receives notification from the Governor that the member has been excused for the absences.

History. Acts 1997, No. 1080, § 2.

25-29-103. Assessment on local exchange service providers.

(a) The The Board of Directors of the Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation shall levy assessments on all providers of local exchange service not to exceed ten cents (10¢) per subject access line per month in order to fund the services provided by the corporation.

(b) The board may adjust the assessment in January of each year, but at no time shall the assessment exceed ten cents (10¢) per subject access line per month.

(c) The assessment shall not be levied on more than one hundred (100) lines at any single customer location.

(d) The assessment may be collected by the providers of local exchange service from its customers and transmitted monthly to the board, and the board shall deposit the assessment into a financial institution authorized to accept public funds.

(e) The assessments levied by the corporation shall not be considered a tax and shall not be affected by any laws of this state governing taxation, nor shall the assessments be subject to any state or local tax or franchise fee.

History. Acts 1997, No. 1080, § 3.

25-29-104. Powers and duties.

The Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation shall:

(1) Provide telecommunications relay services, including, but not limited to, services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device, for persons who are deaf, hearing impaired, deaf and blind, or severely speech impaired;

(2) Take other actions necessary and proper to provide telecommunications services to persons who are deaf, hearing impaired, deaf and blind, or severely speech impaired;

(3) Have perpetual succession as a body politic and corporate, adopt bylaws for the regulation of the affairs and the conduct of its business, and prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(4) Adopt an official seal and alter it at pleasure;

(5) Sue and be sued in its own name and plead and be impleaded;

(6) Make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter, including contracts with persons, firms, corporations, and others;

(7) Purchase insurance; and

(8) Do any and all other acts and things necessary, convenient, or desirable to carry out the purposes of this chapter and to exercise the powers granted to it by this chapter.

History. Acts 1997, No. 1080, § 4.

25-29-105. Staff — Real property — Debt.

(a) The Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation shall not employ any person as a salaried employee but shall rely upon volunteers and professional services obtained by contract.

(b) No corporate asset may be used to purchase or lease any real property, nor is the corporation authorized to incur any indebtedness.

History. Acts 1997, No. 1080, § 5.

25-29-106. Corporate offices.

The Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation may maintain an office at such location as it deems suitable.

History. Acts 1997, No. 1080, § 6.

25-29-107. Annual audit.

The Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation shall be audited annually in accordance with generally accepted accounting procedures and file a copy of the audit with the Legislative Joint Auditing Committee and the Arkansas Public Service Commission.

History. Acts 1997, No. 1080, § 7.

25-29-108. Articles of incorporation.

Within thirty (30) days after the first meeting of the Board of Directors of the Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation, it shall cause articles of incorporation be filed with the Secretary of State.

History. Acts 1997, No. 1080, § 8.

25-29-109. Purchase of telecommunications services.

The purchase of telecommunications services by the Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation shall be by competitive bid using procedures substantially similar to the Arkansas Procurement Law, § 19-11-201 et seq.

History. Acts 1997, No. 1080, § 9.

25-29-110. Annual report.

The Board of Directors of the Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation shall transmit to the Legislative Council, the Governor, and the Arkansas Public Service Commission an annual report of its activities. The annual report shall be filed by March 31 of each year.

History. Acts 1997, No. 1080, § 10.

25-29-111. Section 12 companies.

(a) The provisions of this section apply only to telecommunications corporations with fewer than ten thousand (10,000) access lines which have elected to become Section 12 companies pursuant to § 23-17-412.

(b)(1) All telecommunications companies currently making contributions which affect the Arkansas Intrastate Carrier Common Line Pool (AICCLP) or the Arkansas IntraLATA Toll Pool, or both, due to prior review shall not be required to continue making the contributions effective upon the companies' election as Section 12 companies, pursuant to § 23-17-412.

(2) Provided, if the companies discontinue making contributions to the Arkansas Intrastate Carrier Common Line Pool (AICCLP) or the Arkansas IntraLATA Toll Pool, or both, one percent (1%) of contributions that would have been made to the Arkansas Intrastate Carrier Common Line Pool (AICCLP) or the Arkansas IntraLATA Toll Pool, or both, for ten (10) months will be paid for start-up costs to the corporation provided for in this chapter.

History. Acts 1997, No. 1080, § 11.

25-29-112. Effect of chapter on Acts 1995, No. 501.

All laws and parts of laws in conflict with this chapter are hereby repealed. However, to the extent any provisions of this chapter conflict with any provisions of Acts 1995, No. 501, the provisions of Acts 1995, No. 501, shall prevail.

History. Acts 1997, No. 1080, § 14.
Publisher's Notes. As to the codifica-

tion of Acts 1995, No. 501, please consult
 Tables Volume B.

CHAPTER 30

DEPARTMENT OF WORKFORCE EDUCATION

SUBCHAPTER.

1. WORKFORCE EDUCATION.
2. ARKANSAS REHABILITATION SERVICES.

SUBCHAPTER 1 — WORKFORCE EDUCATION

SECTION.

- 25-30-101. State Board of Workforce Education and Career Opportunities.
- 25-30-102. Powers and duties of the State Board of Workforce Education and Career Opportunities.
- 25-30-103. Adult education funds.
- 25-30-104. Coordination with State Board of Education and Department of Education.
- 25-30-105. Coordination with Arkansas Higher Education Coordinating Board and Department of Higher Education.

SECTION.

- 25-30-106. Department of Workforce Education.
- 25-30-107. Powers and duties of the department.
- 25-30-108. Authority of Director of the Department of Workforce Education to enter into contracts.
- 25-30-109. Transfer of powers to Arkansas Economic Development Commission and Department of Economic Development.

25-30-101. State Board of Workforce Education and Career Opportunities.

(a) There is hereby created the State Board of Workforce Education and Career Opportunities, hereinafter referred to as "the board".

(b) The State Board of Vocational Education created by § 6-11-101 is abolished and transferred to the State Board of Workforce Education and Career Opportunities by a type 3 transfer under § 25-2-106.

(c) The State Board of Workforce Education and Career Opportunities shall be composed as follows:

(1) Seven (7) members appointed by the Governor subject to confirmation by the Senate, one (1) member from each congressional district and three (3) members from the state at large; and

(2) The members shall be selected from among parents, business, industry, labor, persons with disabilities, minorities, and other groups who shall be representative of the many career opportunities available in the state such as:

- (A) Administration, business, and finance management;
- (B) Agriculture, forestry, and natural resources;
- (C) Art, media, and communications;
- (D) Construction and extractive;
- (E) Education and training services;
- (F) Health and medical services;
- (G) Hospitality and tourism;
- (H) Legal and protective services;
- (I) Manufacturing, processing, and systems operations;
- (J) Marketing, sales, and promotion;
- (K) Mechanical and technical services and precision crafts;
- (L) Natural and applied science and engineering;
- (M) Personal and commercial services; and
- (N) Transportation and material moving.

(d) The term of office of members shall be seven (7) years, except that at the first meeting the members shall draw lots for staggered terms so that no more than one (1) membership shall expire each year on June 30.

(e) No person may serve as a member of the board unless he or she is a qualified elector of this state.

(f) No candidate for or holder of a public office in the state, Director of the Department of Education or Director of the Department of Higher Education, employee of a public school district, employee of a postsecondary or higher education institution, or member of any board of directors or board of trustees of any postsecondary or higher education institution in this state shall serve as a member of the State Board of Workforce Education and Career Opportunities.

(g) When a vacancy occurs in the membership of the board, a successor will be appointed in the same manner as the person succeeded and will serve the person's unexpired term, subject to all other provisions of this subchapter.

(h) The members of the board shall serve without remuneration, except as specified in § 25-16-901 et seq. for the State Board of Vocational Education.

(i) The board shall elect from its own number a chair and such other officers as may be deemed necessary to carry on its business.

(j) The board shall meet at least once during each calendar quarter and at such other times upon call of the chair or any other three (3) members.

(k)(1) The board shall appoint from its membership a liaison officer to the State Board of Education, the Arkansas Higher Education Coordinating Board, the Department of Human Services, the Arkansas Employment Security Department, and the Arkansas Economic Development Commission.

(2) Liaison officers shall attend the board and council meetings or other appropriate meetings as designated by the chair and shall represent and articulate the policies of the board to these boards, councils, and agencies.

(l) The Director of the Department of Education and the Director of the Department of Higher Education shall serve as ex officio nonvoting members of the State Board of Workforce Education and Career Opportunities.

(m) The Director of the Department of Higher Education and the Director of the Department of Workforce Education shall serve as ex officio nonvoting members of the State Board of Education.

(n) The Director of the Department of Workforce Education and the Director of the Department of Education shall serve as ex officio nonvoting members of the Arkansas Higher Education Coordinating Board.

History. Acts 1999, No. 1323, § 58; 2001, No. 1288, § 25.

Amendments. The 2001 amendment redesignated former (c)(1)(B) as (c)(2), and made related changes; redesignated former (c)(1)(B)(i) through (c)(1)(B)(xiv) as

(c)(2)(A) through (c)(2)(N); deleted former (c)(2) through (c)(6); and in present (d), deleted "appointed by the Governor" preceding "shall be seven," deleted former (d)(2) and made related changes.

25-30-102. Powers and duties of the State Board of Workforce Education and Career Opportunities.

(a) On April 24, 1997, the State Board of Workforce Education and Career Opportunities shall become vested with and succeed to all the rights, titles, powers, interests, obligations, duties, and responsibilities of the State Board of Vocational Education.

(b) The State Board of Workforce Education and Career Opportunities shall develop and monitor a state plan for vocational-technical education which shall include the establishment of at least one (1) area vocational center in each educational service cooperative area and in Pulaski County. All policy issues affecting the public schools will be developed by the State Board of Workforce Education and Career Opportunities after consultation with the State Board of Education and implemented in coordination with the Department of Education or the education service cooperatives, or both.

(c) The State Board of Workforce Education and Career Opportunities shall have general supervision of all programs regarding vocational, technical, and occupational education. All of those programs and the funding of those programs shall be subject to the approval of the board.

(d)(1) The responsibilities of the State Board of Workforce Education and Career Opportunities shall include, but not be limited to, the following:

(A) Establishing policies relating to plans and specifications for facilities and instructional equipment;

(B) Prescribing standardized standards for programs and teachers;

(C) Approving applied courses of related academic instruction; and

(D) Other items relative to program quality and operation.

(2) The State Board of Workforce Education and Career Opportunities shall have the authority to reorganize and restructure current programs and personnel in the institutions covered in this section. Any savings of appropriated funds effected thereby may be used by the board for other programs as it deems appropriate.

(e) The State Board of Education shall be responsible for the administration of all funds appropriated by the General Assembly for public education based on the average daily membership of students enrolled in vocational education programs in the public schools, and these funds shall be administered through the Department of Education.

(f) All references in the laws of this state to the State Board of Vocational Education shall be construed to refer to the State Board of Workforce Education and Career Opportunities.

History. Acts 1999, No. 1323, § 58.

25-30-103. Adult education funds.

The State Board of Workforce Education and Career Opportunities and the State Board of Education shall remain the sole state agency to administer any and all state and federal adult education funds. The board shall distribute federal adult education funds to participating institutions under the effective and efficient funding formula as established by the board.

History. Acts 1999, No. 1323, § 58.

25-30-104. Coordination with State Board of Education and Department of Education.

The State Board of Workforce Education and Career Opportunities and the State Board of Education shall coordinate their activities to ensure that academic, workplace, and technical skills create opportunities for a strong comprehensive education regardless of the student's ultimate career choice.

History. Acts 1999, No. 1323, § 58.

25-30-105. Coordination with Arkansas Higher Education Coordinating Board and Department of Higher Education.

The State Board of Workforce Education and Career Opportunities and the Arkansas Higher Education Coordinating Board shall coordinate their activities to ensure that secondary and postsecondary career preparation is connected to create opportunities for a strong comprehensive education regardless of the student's ultimate career choice. In addition, the two (2) boards shall participate in a collaborative planning process annually for the distribution of federal funds for workforce education activities, including vocational-technical education. The dis-

tribution shall be pursuant to written agreement between the two (2) boards.

History. Acts 1999, No. 1323, § 58.

25-30-106. Department of Workforce Education.

(a) There is hereby created the Department of Workforce Education, hereinafter referred to as "the department".

(b) The Vocational and Technical Education Division of the Department of Education created by § 25-6-101, the Governor's Commission on Adult Literacy created by § 6-44-201 [repealed], and the Advisory Council for Vocational-Technical Education created by § 6-50-601 [repealed] are abolished and transferred to the Department of Workforce Education by a type 3 transfer under § 25-2-106.

(c) The Arkansas Rehabilitation Services as an agency responsible to the State Board of Workforce Education and Career Opportunities and as a part of the Department of Workforce Education shall function as an agency in accordance with § 6-52-101 et seq. and § 25-30-201 et seq. This subchapter shall assure that the Arkansas Rehabilitation Services functions organizationally at a level at least equal to that of any division or entity of the Department of Workforce Education.

(d) The board shall appoint a director of the department who shall:

- (1) Be a member of the Governor's cabinet;
- (2) Be confirmed by the Governor; and
- (3) Serve at the pleasure of the Governor.

(e) The director shall devote all of his or her time to the duties of his or her office, shall act as agent of the board, and shall perform such other duties as are designated by the board or by statute.

(f) The director shall serve as the ex officio secretary of the board without vote.

(g) The person selected as director must be a person of good moral character, recognized as a leader in the field of vocational or workforce education, and qualified technically and by experience to direct the work of the department.

(h) No person who is related within the fourth degree of consanguinity or affinity to any member of the board shall be eligible to serve as director of the department.

History. Acts 1999, No. 1323, § 58.

25-30-107. Powers and duties of the department.

(a) On April 24, 1997, the Department of Workforce Education shall become vested with and succeed to all the rights, titles, powers, interests, obligations, duties, and responsibilities of the Vocational and Technical Education Division of the Department of Education.

(b) All personnel of the Department of Workforce Education shall be employed by and serve at the pleasure of the Director of the Department of Workforce Education. Provided, nothing in this section shall be

so construed as to reduce any rights or benefits of employees, including retirement benefits, that they had when employed by the Vocational and Technical Division of the Department of Education.

(c) The authority and responsibility of the State Board of Workforce Education and Career Opportunities and the Department of Workforce Education shall include general control and supervision of all programs of vocational, technical, and occupational education in secondary institutions. This authority shall apply to programs in:

- (1) State technical institutes;
- (2) State postsecondary vocational schools;
- (3) State area vocational high school centers;
- (4) State public schools; and
- (5) Any other public educational facility or institution now in existence or hereafter established in the state with the exception of technical colleges, community colleges, universities, and colleges.

(d) All references in the laws of this state to the Vocational and Technical Education Division of the Department of Education shall be construed to refer to the Department of Workforce Education.

History. Acts 1999, No. 1323, § 58.

25-30-108. Authority of Director of the Department of Workforce Education to enter into contracts.

The Director of the Department of Workforce Education is authorized to enter into contracts with private organizations licensed by the State Board of Education or the State Board of Workforce Education and Career Opportunities in order to provide vocational-technical training to needy citizens of the State of Arkansas.

History. Acts 1999, No. 1323, § 58.

25-30-109. Transfer of powers to Arkansas Economic Development Commission and Department of Economic Development.

All powers, functions, and duties heretofore vested in and exercised by the Department of Workforce Education with respect to the Arkansas Industry Training Program are hereby transferred to and shall hereafter be vested in the Arkansas Economic Development Commission and the Department of Economic Development.

History. Acts 1999, No. 1323, § 58.

SUBCHAPTER 2 — ARKANSAS REHABILITATION SERVICES

SECTION.

- 25-30-201. Arkansas Rehabilitation Services.
- 25-30-202. Scope of authority.
- 25-30-203. Powers and duties.

SECTION.

- 25-30-204. Eligibility for retirement systems.
- 25-30-205. Office facilities.

25-30-201. Arkansas Rehabilitation Services.

(a) The policy and scope of the Arkansas Rehabilitation Services shall be to provide increased employment of individuals with disabilities through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society.

(b) Pursuant to that policy, rehabilitation services shall be provided to citizens throughout the state, and the rehabilitation plan adopted pursuant to this subchapter shall be in effect in all political subdivisions of the state.

History. Acts 1999, No. 1323, § 58.

25-30-202. Scope of authority.

(a) All authorities and responsibilities defined in § 20-79-201 et seq. shall be administered by the Arkansas Rehabilitation Services under the direction of the State Board of Workforce Education and Career Opportunities, except those transferred to the Division of State Services for the Blind of the Department of Human Services by § 25-10-201 et seq.

(b) Any and all statutory authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations, or other funds transferred from the Division of Rehabilitation Services to the Department of Human Services by Acts 1985, No. 348, are hereby transferred to the Arkansas Rehabilitation Services of the Department of Workforce Education.

History. Acts 1999, No. 1323, § 58.

25-30-203. Powers and duties.

(a) The State Board of Workforce Education and Career Opportunities, through the Arkansas Rehabilitation Services of the Department of Workforce Education, shall provide the rehabilitation services authorized by this subchapter to eligible physically or mentally disabled individuals and those who can benefit from vocational rehabilitation and independent living services, as determined by the agency to be eligible therefor.

(b) In carrying out the purposes of this subchapter, the Arkansas Rehabilitation Services is authorized, among other things:

(1) To be the sole state agency to supervise and administer the rehabilitation services authorized by this subchapter except such part or parts as may be administered by a local agency in a political subdivision of the state, in which case the Arkansas Rehabilitation Services shall be the sole agency to supervise such a local agency in the administration of such part or parts; and

(2) To conduct research and compile statistics relative to the provision of services or the need of services of disabled individuals.

History. Acts 1999, No. 1323, § 58.

25-30-204. Eligibility for retirement systems.

All employees of the Arkansas Rehabilitation Services as of July 1, 1993, shall be eligible for membership in the Arkansas Public Employees' Retirement System, Arkansas Teacher Retirement System, or alternate retirement systems.

History. Acts 1999, No. 1323, § 58.

25-30-205. Office facilities.

The Arkansas State Building Services shall ensure that all offices of the Arkansas Rehabilitation Services of the Department of Workforce Education are exemplary models of accessibility and conform to the Americans with Disabilities Act accessibility guidelines.

History. Acts 1999, No. 1323, § 58.

U.S. Code. The Americans with Disabilities Act, referred to in this section, is

codified primarily as 42 U.S.C § 12101 et seq.

CHAPTER 31

ELECTRONIC RECORDS AND SIGNATURES

| SECTION. | SECTION. |
|------------------------------------|---|
| 25-31-101. Short title. | record or signature. |
| 25-31-102. Construction. | 25-31-105. Unauthorized use of electronic |
| 25-31-103. Definitions. | signature. |
| 25-31-104. Agreement to electronic | |

25-31-101. Short title.

This chapter shall be known and may be cited as the “Arkansas Electronic Records and Signatures Act”.

History. Acts 1999, No. 718, § 1.

25-31-102. Construction.

The provisions of this chapter shall be construed to promote the development of electronic government and electronic commerce. The Secretary of State shall develop guidelines for the use of electronic signatures and provide a register of electronic signature verification companies.

History. Acts 1999, No. 718, § 2.

25-31-103. Definitions.

As used in this chapter the term:

(1) "Electronic signature" means an electronic or digital method executed or adopted by a party with the intent to be bound by or to authenticate a record, which is:

- (A) Unique to the person using it;
- (B) Capable of verification;
- (C) Under the sole control of the person using it; and
- (D) Linked to data in such a manner that if the data are changed the electronic signature is invalidated;

(2) "Electronic signature verification company" means a company providing verification of an electronic signature. An electronic signature verification company shall obtain a surety bond in the amount of two hundred fifty thousand dollars (\$250,000);

(3) "Person" means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity and also includes any department, agency, authority, or instrumentality of the state or its political subdivisions; and

(4) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. "Record" includes both electronic records and printed, typewritten, and tangible records.

History. Acts 1999, No. 718, § 3.

25-31-104. Agreement to electronic record or signature.

(a) Any person may, but shall not be required to, accept or agree to be bound by an electronic record which is:

- (1) Executed or adopted with an electronic signature; and
- (2) Witnessed or notarized using an electronic signature, when that acceptance or agreement is otherwise required to be witnessed or notarized.

(b) When a person or other entity accepts or agrees to be bound by an electronic record as provided in this section, then any rule of law which requires

- (1) A record of that type to be in writing shall be deemed satisfied;
- (2) A signature shall be deemed satisfied; and
- (3) A witness or notary shall be deemed satisfied by the electronic signature of the witness or notary.

History. Acts 1999, No. 718, § 4.

25-31-105. Unauthorized use of electronic signature.

(a) A person whose electronic signature is used in an unauthorized fashion may recover or obtain any or all of the following against the person who engaged in such an unauthorized use, provided that the use

of the electronic signature in an unauthorized fashion was negligent, reckless, or intentional:

- (1) Actual damages;
- (2) Equitable relief, including, but not limited to, an injunction or restitution of money or property;
- (3) Punitive damages under the circumstances set forth in Arkansas law;
- (4) Reasonable attorney’s fees and expenses; and
- (5) Any other relief which the court deems proper.
- (b) Nothing in this section shall preclude criminal sanctions.
- (c) Nothing in this section shall be deemed to waive the sovereign immunity otherwise provided by law to the state or any of its political subdivisions.

History. Acts 1999, No. 718, § 5.

CHAPTER 32

UNIFORM ELECTRONIC TRANSACTIONS ACT

- SECTION.
- 25-32-101. Short title.
 - 25-32-102. Definitions.
 - 25-32-103. Scope.
 - 25-32-104. Prospective application.
 - 25-32-105. Use of electronic records and electronic signatures — Variation by agreement.
 - 25-32-106. Construction and application.
 - 25-32-107. Legal recognition of electronic records, electronic signatures, and electronic contracts.
 - 25-32-108. Provision of information in writing — Presentation of records.
 - 25-32-109. Attribution and effect of electronic record and electronic signature.
 - 25-32-110. Effect of change or error.

- SECTION.
- 25-32-111. Notarization and acknowledgment.
 - 25-32-112. Retention of electronic records — Originals.
 - 25-32-113. Admissibility in evidence.
 - 25-32-114. Automated transaction.
 - 25-32-115. Time and place of sending and receipt.
 - 25-32-116. Transferable records.
 - 25-32-117. Creation and retention of electronic records and conversion of written records by governmental agencies.
 - 25-32-118. Acceptance and distribution of electronic records by governmental agencies.
 - 25-32-119. Interoperability.
 - 25-32-120. Severability clause.
 - 25-32-121. [Reserved.]

Effective Dates. Acts 2001, No. 905, § 21; Mar. 19, 2001. Emergency clause provided: “It is found and determined by the General Assembly that modern commerce in this State requires the use of, and will be facilitated by electronic signatures and electronic transactions, that presently Arkansas law is preempted by federal law concerning that subject matter by the Electronic Signatures in Global and National Commerce Act; that under the federal act the federal preemption

may be largely and immediately be displaced by the enactment of the Uniform Electronic Transactions Act; that the latter act contains provisions not contained in the current act and the additional provisions would be of immediate advantage to electronic commerce in Arkansas; and the latter act has already been adopted in over two-dozen states, resulting in potential economic advantage to those states over Arkansas. Therefore, an emergency is declared to exist and this act being

immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the

expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

25-32-101. Short title.

This chapter may be cited as the "Uniform Electronic Transactions Act".

History. Acts 2001, No. 905, § 1.

25-32-102. Definitions.

In this chapter:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a State or of a county, municipality, or other political subdivision of a State.

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a State.

(16)(A) "State agency" means all state departments, boards, and commissions.

(B) "State agency" does not mean elected constitutional officers and their employees, members of the General Assembly and their staff, the Supreme Court, or the Administrative Office of the Courts.

(17) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

History. Acts 2001, No. 905, § 2.

25-32-103. Scope.

(a) Except as otherwise provided in subsection (b), this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter does not apply to a transaction to the extent it is governed by:

(1) a law governing the creation and execution of wills, codicils, or testamentary trusts; and

(2) the Uniform Commercial Code other than §§ 4-1-107 and 4-1-206, Chapter 2, and Chapter 2A.

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (b) to the extent it is governed by a law other than those specified in subsection (b).

(d) A transaction subject to this chapter is also subject to other applicable substantive law.

(e) This chapter is an enactment of the Uniform Electronic Transactions Act as approved and recommended for enactment in all the States by the National Conference of Commissioners on Uniform State Laws in 1999 and therefore, pursuant to Section 102(a) of the Electronic Signatures in Global and National Commerce Act, modifies, limits, or supercedes the provisions of Section 101 of the Electronic Signatures in Global and National Commerce Act to the extent therein authorized.

History. Acts 2001, No. 905, § 3.

U.S. Code. Sections 102(a) and 101 of the Electronic Signatures in Global and

National Commerce Act referred to in this section are codified at 15 USCS 7002(a) and 7001, respectively.

25-32-104. Prospective application.

This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after March 19, 2001.

History. Acts 2001, No. 905, § 4.

25-32-105. Use of electronic records and electronic signatures — Variation by agreement.

(a) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(d) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

History. Acts 2001, No. 905, § 5.

25-32-106. Construction and application.

This chapter must be construed and applied:

(1) to facilitate electronic transactions consistent with other applicable law;

- (2) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among States enacting it.

History. Acts 2001, No. 905, § 6.

25-32-107. Legal recognition of electronic records, electronic signatures, and electronic contracts.

- (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- (c) If a law requires a record to be in writing, an electronic record satisfies the law.
- (d) If a law requires a signature, an electronic signature satisfies the law.

History. Acts 2001, No. 905, § 7.

25-32-108. Provision of information in writing — Presentation of records.

- (a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.
- (b) If a law other than this chapter requires a record (i) to be posted or displayed in a certain manner, (ii) to be sent, communicated, or transmitted by a specified method, or (iii) to contain information that is formatted in a certain manner, the following rules apply:
 - (1) The record must be posted or displayed in the manner specified in the other law.
 - (2) Except as otherwise provided in subsection (d)(2), the record must be sent, communicated, or transmitted by the method specified in the other law.
 - (3) The record must contain the information formatted in the manner specified in the other law.
- (c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.
- (d) The requirements of this section may not be varied by agreement, but:
 - (1) to the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that require-

ment to be varied by agreement, the requirement under subsection (a) that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(2) a requirement under a law other than this chapter to send, communicate, or transmit a record by first-class mail, postage prepaid or regular United States mail, may be varied by agreement to the extent permitted by the other law.

History. Acts 2001, No. 905, § 8.

25-32-109. Attribution and effect of electronic record and electronic signature.

(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

History. Acts 2001, No. 905, § 9.

25-32-110. Effect of change or error.

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(A) promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(B) takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(C) has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither paragraph (1) nor paragraph (2) applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(4) Paragraphs (2) and (3) may not be varied by agreement.

History. Acts 2001, No. 905, § 10.

25-32-111. Notarization and acknowledgment.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

History. Acts 2001, No. 905, § 11.

25-32-112. Retention of electronic records — Originals.

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

(1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(2) remains accessible for later reference.

(b) A requirement to retain a record in accordance with subsection (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy subsection (a) by using the services of another person if the requirements of that subsection are satisfied.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (a).

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a).

(f) A record retained as an electronic record in accordance with subsection (a) satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after March 19, 2001, specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this State from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

History. Acts 2001, No. 905, § 12.

25-32-113. Admissibility in evidence.

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

History. Acts 2001, No. 905, § 13.

25-32-114. Automated transaction.

In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

History. Acts 2001, No. 905, § 14.

25-32-115. Time and place of sending and receipt.

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(1) is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) is in a form capable of being processed by that system; and

(3) enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(1) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) it is in a form capable of being processed by that system.

(c) Subsection (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is

deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(1) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under subsection (b) even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under subsection (a), or purportedly received under subsection (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

History. Acts 2001, No. 905, § 15.

25-32-116. Transferable records.

(a) In this section, "transferable record" means an electronic record that:

(1) would be a note under Chapter 3 of the Uniform Commercial Code or a document under Chapter 7 of the Uniform Commercial Code if the electronic record were in writing; and

(2) the issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies subsection (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the transferable record was issued; or

(B) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in § 4-1-201(20) of the Uniform Commercial Code, § 4-1-101 et seq., of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, § 4-1-101 et seq., including, if the applicable statutory requirements under § 4-3-302(a), § 4-7-501, or § 4-9-308 of the Uniform Commercial Code, § 4-1-101 et seq., are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code, § 4-1-101 et seq.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

History. Acts 2001, No. 905, § 16.

25-32-117. Creation and retention of electronic records and conversion of written records by governmental agencies.

(a) Each governmental agency of this State shall determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records.

(b) Each state agency shall comply with applicable standards and policies adopted or established by the Executive Chief Information Officer, in collaboration with the CIO Council to determine whether and the extent to which it will retain and convert written records to electronic records.

History. Acts 2001, No. 905, § 17.

25-32-118. Acceptance and distribution of electronic records by governmental agencies.

(a)(1) Except as otherwise provided in § 25-32-112(f), each governmental agency of this State shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) For state agencies, the determinations shall be consistent with applicable standards and policies adopted or established by the Executive Chief Information Officer, in collaboration with the CIO Council.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (a), the governmental agency, giving due consideration to security, may specify:

(1) the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(2) if electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(3) control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(4) any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in § 25-32-112(f), this chapter does not require a governmental agency of this State to use or permit the use of electronic records or electronic signatures.

History. Acts 2001, No. 905, § 18.

25-32-119. Interoperability.

With respect to standards adopted pursuant to § 25-32-118, the Executive Chief Information Officer may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other States and the federal government and nongovernmental persons interacting with governmental agencies of this State. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this State may choose in implementing the most appropriate standard for a particular application.

History. Acts 2001, No. 905, § 19.

25-32-120. Severability clause.

If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

History. Acts 2001, No. 905, § 20.

Meaning of “this act”. Acts 2001, No. 905, codified as §§ 25-32-101—25-32-120.

25-32-121. [Reserved.]

A.C.R.C. Notes. This section of the Uniform Electronic Transactions Act, an effective date provision, was not adopted

in Arkansas. For the effective date of Acts 2001, No. 905, see the note at the beginning of this chapter.

CHAPTER 33**STATE EXECUTIVE CHIEF INFORMATION OFFICER
AND CIO COUNCIL****SECTION.**

25-33-101. Finding.

25-33-102. Definitions.

25-33-103. Executive Chief Information Officer.

25-33-104. Executive Chief Information

SECTION.

Officer — Duties.

25-33-105. CIO Council.

25-33-106. Information Technology Oversight Committee.

25-33-107. Appeal.

A.C.R.C. Notes. Acts 2001, No. 1042, § 8, provided: “The current Department of Information Systems Steering Committee and the Department of Information Systems Advisory Board are hereby abolished.”

Acts 2001, No. 1672, § 37, provided: “OFFENDER MANAGEMENT INFORMATION SYSTEM MONITOR. The Executive Chief Information Officer shall have the authority to monitor the integrated electronic offender management information system under development by the Department of Correction and the Department of Community Correction.”

Acts 2001, No. 1685, § 1, provided: “(a) Creation of the Arkansas Technology Infrastructure Fund shall be referred to the Joint Committee On Advanced Communications And Information Technology.

“(b) The Joint Committee On Advanced Communications And Information Technology, in conjunction with the Executive Chief Information Officer, shall: (1) Study the mechanisms available to identify the

savings created by the deployment of information technology; and (2) Make recommendations to the Governor and the General Assembly prior to the Eighty-Fourth General Assembly convenes.”

Effective Dates. Acts 2001, No. 1042, § 9: Mar. 22, 2001. Emergency clause provided: “It is hereby found and determined by the Eighty-third General Assembly that the position of the Executive Chief Information Officer and CIO Council are needed immediately to undertake the technology initiatives set before them. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it

shall become effective on the date the last house overrides the veto.”

RESEARCH REFERENCES

ALR. Validity, construction, and effect of state statutes restricting political activities of public officers or employees. 51 ALR 4th 702.

25-33-101. Finding.

The General Assembly finds and declares information and information resources to be strategic assets of the State of Arkansas and that procedures must be established to ensure that:

- (1) Information technology resources are developed and implemented to provide electronic government services to the citizens of Arkansas twenty-four (24) hours a day, seven (7) days a week;
- (2) Information resources are used in an efficient manner;
- (3) Information is administered and shared consistent with requirements for security, privacy, and confidentiality;
- (4) Information technology acquisitions meet state needs and are consistent with coordinated efforts to maximize standardization and cost effectiveness; and
- (5) State officials have timely access to information in useful forms.

History. Acts 2001, No. 1042, § 1.

25-33-102. Definitions.

For purposes of this chapter:

- (1) “Agency CIO” means the chief information officer of a state agency whose charge is to apply technology to meet the agency’s core business processes;
- (2) “Executive CIO” means the Executive Chief Information Officer of the state appointed under this chapter;
- (3) “CIO Council” means the CIO Council created by this chapter;
- (4) “Core information technology infrastructure” means the state data, state network and application interfaces, and state security;
- (5) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means;
- (6) “Enterprise project” refers to an information technology project that:
 - (A) Applies to more than one (1) government entity; and
 - (B) Has implications for the development of the core infrastructure in compliance with the state’s shared technical architecture;
- (7) “Information technology” means any component related to information processing and telecommunications, including data processing and telecommunications hardware, software, services, planning, personnel, facilities, and training;
- (8) “Information technology resources” means:

- (A) The procedures, equipment, and software that are designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information; and
- (B) Associated personnel, including consultants and contractors;
- (9) "Project" means a program to apply information technology resources to functions within or among elements of a state agency, that ideally is characterized by:
 - (A) Well-defined parameters;
 - (B) Specific objectives;
 - (C) Common benefits;
 - (D) Planned activities;
 - (E) A scheduled completion date; and
 - (F) An established budget with a specified source of funding;
- (10) "State agencies" means all state departments, boards, and commissions, but shall not include the elected constitutional officers and their staffs, the General Assembly and its committees and staffs, the Supreme Court and the Administrative Office of the Courts, and public institutions of higher education with respect to academic, research, healthcare, and existing information technology applications and underlying support therefor; and
- (11) "State of Arkansas shared technical architecture" means:
 - (A) The structure of program or system components of state government;
 - (B) How these components relate to one another;
 - (C) The means of communication among them; and
 - (D) The principles that govern their design and evolution over time.

History. Acts 2001, No. 1042, § 2.

25-33-103. Executive Chief Information Officer.

(a) There is hereby created the position of Executive Chief Information Officer, which shall be appointed by and serve at the will of the Governor.

(b) Minimum qualifications for the Executive Chief Information Officer, including, but not limited to, education, background, and experience shall be promulgated by the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration to be reviewed by the Legislative Council and approved by the Governor.

(c)(1) The Office of Information Technology shall be under the direction of the Executive Chief Information Officer as soon as the Executive Chief Information Officer is appointed. Until that appointment, the office shall remain under the Department of Information Systems.

(2) The powers and duties of the Executive Chief Information Officer shall not become effective until the appointment of the Executive Chief Information Officer.

History. Acts 2001, No. 1042, § 3;
2001, No. 1722, § 16.

25-33-104. Executive Chief Information Officer — Duties.

(a) The Executive Chief Information Officer shall:

(1) Utilize any personnel and resources of the Department of Information Systems as deemed necessary with the consent of the Governor, including, but not limited to, the functions currently performed by the Office of Information Technology;

(2)(A) Direct the formulation and promulgation of policies, standards, specifications, and guidelines for information technology in the state, including, but not limited to, those required to support state and local government exchange in a secure environment for the acquisition, storage, use, sharing, and distribution of core infrastructure components as defined by the State of Arkansas shared technical architecture.

(B) The areas in which standards, policies, and guidelines shall be developed shall include, but are not limited to, retention schedules for control, preservation, protection, and disposition of the electronic records of agencies;

(3) Develop a process for how all state agencies shall have input into the formation of these policies, standards, specifications, and guidelines and present the plan to the Governor and the General Assembly;

(4) If deemed necessary and appropriate, establish working groups to assist in the formulation of policies, standards, specifications, and guidelines and assure that all agencies have the opportunity to review and comment;

(5) Oversee the development of legislation and rules and regulations affecting electronic records management and retention, privacy, security, and related issues;

(6) Create a state security office to monitor information resource security issues, coordinate all security measures which could be used to protect resources by more than one (1) governmental entity, and act as an information technology resource to other state agencies;

(7) Oversee the development of information technology security policy for state agencies;

(8) Direct the development of policies and procedures, in consultation with the CIO Council, which state agencies shall follow in developing information technology plans and technology-related budgets and technology project justification;

(9) Establish criteria for enterprise projects and review enterprise project plans and budget requests and recommend priorities to the council;

(10)(A) Develop plans and implementation strategies to promulgate state-level missions, goals, and objectives for the use of information technology, with the review and advice of the council.

(B) These plans and strategies shall include, but not be limited to:

(i) Business case development for information technology applications;

- (ii) Maximizing state purchasing power;
 - (iii) Increasing collaborative efforts for projects of mutual interest; and
 - (iv) Creating opportunities to develop public and private partnerships;
 - (11) Review procurements to ensure conformity with information policies and standards and state-level plans and implementation strategies;
 - (12) Advise state agencies in acquiring information technology service, as well as advise on information technology contracts and agreements;
 - (13) Make a quarterly report to the Joint Committee on Advanced Communications and Information Technology regarding the status of information technology deployment to meet the goals set forth in this enabling legislation;
 - (14) Solicit, receive, and administer funds from public and private entities to be used for the purchase of information technology resources; and
 - (15) Report to the committee and the Governor the total business analysis prepared for information technology projects.
- (b)(1) All state departments, boards, commissions, and public institutions of higher education, with respect to their technology functions and applications, shall advise the Executive Chief Information Officer in advance of their anticipated usage needs for the state core information technology infrastructure to facilitate network capacity planning.
- (2) In addition, all state departments, boards, commissions, and public institutions of higher education, with respect to their technology functions and applications, shall consult and cooperate with the Executive Chief Information Officer in the formation and implementation of security policies for the state core information technology infrastructure.
- (c) Nothing in this chapter shall be construed to deprive, transfer, limit, or in any way alter or change any of the powers vested in the board of trustees of any institution of higher education under existing constitutional and statutory provisions.
- (d) All state agencies shall adopt the policies, standards, specifications and guidelines, if applicable, to implement subdivision (a)(4) of this section.
- (e) As to electronic records, the authority and responsibility of the State Records Commission [repealed] under § 13-4-105 [repealed] are hereby transferred to the Executive Chief Information Officer.
- (f)(1) In the event a state agency proposes an information technology project which does not comply with the state information shared architecture or state information technology plan, the agency shall submit documentation to the Administrator of the Office of Information Technology explaining the reason for noncompliance.
- (2) The administrator shall advance the agency's concerns to the Executive Chief Information Officer, who shall seek review and advice of the council.

(3) The Executive Chief Information Officer shall then approve or disapprove the proposed project plan.

(g) The information technology project justification process developed by the Executive Chief Information Officer in connection with the council shall be followed by all state agencies.

History. Acts 2001, No. 1042, § 4;
2001, No. 1722, § 17.

25-33-105. CIO Council.

(a)(1) There is hereby created the CIO Council to be appointed by the Governor with the advice of the Information Technology Oversight Committee.

(2) The council shall advise the Executive Chief Information Officer on information technology resource usage and prioritization.

(b)(1) The Executive Chief Information Officer shall present a recommendation of the membership of the council to the Governor within sixty (60) days after his or her appointment.

(2) The council shall have representatives from state government, public education, cities, and counties.

(3) The Executive Chief Information Officer shall implement a policy to ensure representation for every state agency on the council, although every state agency shall not have an individual representative on the council.

(c)(1) Specific state agency participation on the council shall be through the position of agency chief information officer.

(2) Minimum qualifications for the agency chief information officer, including, but not limited to, education, background, and experience shall be promulgated by the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration to be reviewed by the Legislative Council and approved by the Governor.

(3) The Executive Chief Information Officer shall have the authority to appoint representatives of other agencies to subcommittees.

(4) In addition, the chief executive employee of the network manager contracted pursuant to the Information Network of Arkansas Act, § 25-27-101 et seq., shall serve as an ex officio member of the council.

(d) The council shall:

(1) Provide leadership in coordinating information technology in the state;

(2) Assist in establishing a prioritization system for state investment in enterprise projects;

(3) Assist in the development of policies and procedures, in consultation with the Executive Chief Information Officer, which state agencies and institutions of higher learning shall follow in developing information technology plans and technology-related budget requests;

(4) Advise on the modification of the state information technology plan;

(5) Create the methodology to evaluate the applications for funding of information technology projects based on the return on investment of the project and the linkage of the project to the agency's business objectives; and

(6) Establish standards and methodologies to ensure that good business case analysis is required from state agencies prior to allocation of funds.

(e)(1) The business case analysis shall identify total costs from beginning to end of the project to include, but not be limited to, consultant needs, required hardware or software support, ongoing support and maintenance, education and training, network bandwidth capacity, etc.

(2) All information technology projects shall be evaluated on the basis of the return on investment of the project, the value-added services, and the compatibility with the state-shared architecture.

(3) The evaluation method shall verify the link between the agency's business objectives and the agency's information technology strategy.

(4) The Executive Chief Information Officer shall report to the appropriate legislative committees and the Governor the total business analysis prepared for information technology projects.

(f)(1) To achieve the best return on investment for the citizens of Arkansas, a state agency shall seek an existing application or technology for its information technology projects before proposing the development of a new application to be created by either a private company or the Department of Information Systems.

(2) The business case analysis necessary to make the appropriate determination shall include line items to identify staff resources required for creating the interfaces to the state's core infrastructure so that interoperability of all newly acquired technologies can be accomplished within the life cycle of the project.

History. Acts 2001, No. 1042, § 5.

25-33-106. Information Technology Oversight Committee.

(a) There is hereby created the Information Technology Oversight Committee to be appointed by the Governor as follows:

(1) Three (3) members nominated by the Joint Committee on Advanced Communications and Information Technology;

(2) Four (4) members from the Arkansas private sector;

(3) Two (2) elected officials from Arkansas local government;

(4) Two (2) members nominated by the Arkansas Higher Education Coordinating Board in consultation with the Executive Council of Presidents and Chancellors of two-year and four-year institutions; and

(5) One (1) member nominated by the State Board of Workforce Education and Career Opportunities.

(b) Members of the Information Technology Oversight Committee must have knowledge and experience in the management and implementation of information technology.

(c) The Information Technology Oversight Committee shall advise the Executive Chief Information Officer on the allocation of information technology resources in the state.

History. Acts 2001, No. 1042, § 6.

25-33-107. Appeal.

(a) With respect to any finding, ruling, or determination that the Administrator of the Office of Information Technology is authorized to make under the provisions of this chapter, any state agency aggrieved by any decision of the administrator, or undue delay by the administrator in reviewing agency requests or plans under the provisions of this chapter, may appeal therefrom in writing to the Executive Chief Information Officer.

(b) The Executive Chief Information Officer shall secure review and advice of the CIO Council within thirty (30) days and immediately furnish a copy of the appeal, including a statement of the reasons for the appeal, and the Executive Chief Information Officer's recommendation to:

(1) The Governor;

(2) During the interim between sessions, the Joint Committee on Advanced Communications and Information Technology; and

(3) During a legislative session, the House Committee on Advanced Communications and Information Technology and the Senate Committee on Technology and Legislative Affairs.

(c) The Governor shall make any individual evaluation and study with respect to an appeal which he or she deems appropriate and, in connection with the evaluation and study, may enlist the cooperation or technical assistance of other state agencies.

(d) The Governor shall issue his or her ruling within thirty (30) days, which may be:

(1) To uphold the decision of the Executive Chief Information Officer;

(2) To reject the decision of the Executive Chief Information Officer and approve the action sought by the state agency; or

(3) To modify the decision of the Executive Chief Information Officer in any manner which the Governor deems appropriate.

(e) The Governor shall notify the following in writing of his or her decision:

(1) During the interim between sessions, the Joint Committee on Advanced Communications and Information Technology; and

(2) During a legislative session, the House Committee on Advanced Communications and Information Technology and the Senate Committee on Technology and Legislative Affairs.

(f) The review by the Executive Chief Information Officer, the council, and the committees identified in subsection (b) of this section is intended to be advisory to the Governor, with ultimate responsibility for the decision to rest with the Governor.

History. Acts 2001, No. 1042, § 7;
2001, No. 1722, § 18.

CHAPTER 34

**ARKANSAS COMPUTER AND ELECTRONIC SOLID
WASTE MANAGEMENT**

SECTION.

- 25-34-101. Title.
- 25-34-102. Findings and purpose.
- 25-34-103. Definitions.
- 25-34-104. Agency policy.
- 25-34-105. Agency authority and accounting.
- 25-34-106. Sale of surplus computer equipment and electronics.
- 25-34-107. Surplus equipment not sold.

SECTION.

- 25-34-108. Disbursement of revenues.
- 25-34-109. Computer and Electronic Recycling Fund.
- 25-34-110. Computer and electronic equipment recycling grants.
- 25-34-111. Computer and electronic equipment landfill ban.

A.C.R.C. Notes. Acts 2001, No. 1410, § 11, provided: “Long Term Options. (a) The Arkansas Department of Environmental Quality is directed to study the current and future solutions for long term disposal options for the entire state to include: (1) Parts Harvesting; (2) Reuse;

(3) Donation; (4) Demanufacturing; and (5) New and emerging technology solutions.

“(b) This report is to be submitted to the Legislative Council for review upon completion.”

25-34-101. Title.

This chapter shall be known and may be cited as the “Arkansas Computer and Electronic Solid Waste Management Act”.

History. Acts 2001, No. 1410, § 1.

25-34-102. Findings and purpose.

- (a) The General Assembly finds that:
 - (1) Computer and electronic solid waste is among the fastest growing and most toxic segments of Arkansas’ solid waste stream;
 - (2)(A) The state must frequently upgrade and replace computers, telecommunications devices, and other technologically sophisticated equipment necessary to the efficient operation of state government.
 - (B)(i) The necessary purchase of up-to-date computers, telecommunications devices, and other technological equipment for state government use often results in a surplus of existing equipment that, while unfit for state government purposes, is still useful and marketable for less complex and less high-speed dependent use.
 - (ii) Surplus equipment is generally stored by the owner agency until the equipment is cleared of all government software and files.

(iii) By the time surplus computer equipment is delivered to the Marketing and Redistribution Section of the Office of State Procurement of the Department of Finance and Administration, it is generally technologically obsolete and has lost considerable value resulting in a significant waste of potential revenue to the State of Arkansas;

(3) Computers and electronic equipment not sold by the Marketing and Redistribution Section may be disposed of in state landfill space; and

(4) There are disposal and recycling options other than landfill disposal to address this problem, including:

(A) Parts harvesting;

(B) Reuse;

(C) Resale;

(D) Donation; and

(E) Demanufacturing.

(b) This chapter is intended to:

(1) Achieve the maximum possible benefit from use of state agency-owned computers, electronics, and peripherals;

(2) Achieve maximum benefit from sale of surplus state agency assets; and

(3) Protect the public health, safety, and the environment by mandating that steps be taken to address the solid waste management of computers and other electronic solid waste statewide.

History. Acts 2001, No. 1410, § 2.

25-34-103. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Agency" means every department, division, office, board, commission, and institution of this state, including state-supported institutions of higher education;

(2) "Computer" means a programmable electronic machine that performs high-speed mathematical or logical operations or that assembles, stores, correlates, or otherwise processes information;

(3)(A) "Demanufacturing" means end-of-life disposition of electronic devices and computers.

(B) "Demanufacturing" includes recovery of hard drives and chips with resale value, the removal of commodities such as copper, aluminum, and gold for sale to scrap consumers, the removal and hazardous-waste disposal of toxins and heavy metals, and the shredding or melting of materials that can be sold and manufactured into new products;

(4) "Disposal" means the discharge, deposit, injection, spilling, leaking, placing, or dumping of any computer or electronic waste into or on any land or water in whatever manner so that the waste or any constituent thereof might enter the environment or be emitted into the air or be discharged into the waters of the state, including groundwaters;

(5) “Electronics” means devices utilizing electrons and electric circuits, including household appliances, televisions, recording and playing devices for music or video tapes, compact discs, and digital technology;

(6) “Fund” means the Computer and Electronic Recycling Fund established by this chapter;

(7) “Recycle” means the use of previously manufactured materials including metals, glass, and plastics in the manufacture of new products;

(8) “Reuse” means use of electronics, computers, and equipment for harvesting of spare parts, resale, or donation; and

(9) “Surplus computer equipment” means computer components no longer in use in an agency and which have residual market value.

History. Acts 2001, No. 1410, § 3.

25-34-104. Agency policy.

(a)(1) Each agency shall prepare and implement an agency-wide policy for the management and sale of agency surplus computer equipment and electronics in accord with the Executive Chief Information Officer’s policies for review and replacement of computer and electronic equipment.

(2) The policy shall mandate that all hard drives of surplus computer equipment be degaussed, cleared of all data and software, and be otherwise prepared for sale within ninety (90) days after replacement.

(3)(A) The policy may provide that computers and electronic equipment first be offered for sale to the primary agency user of the individual computer within thirty (30) days after degaussing of the hard drive.

(B) The policy may provide that computers be secondarily offered for sale to other agency employees forty-five (45) days after degaussing of the hard drive.

(4)(A) The policy shall allow each agency to keep a back stock of computer hardware and electronics for the purpose of parts harvesting for the repair, maintenance, and upgrade of computers in use.

(B) Back stock shall not exceed ten percent (10%) of the number of state employee computers in the agency.

(5) The policy shall include a provision that state employees purchasing state agency computers and electronic equipment accept the computer or equipment on an “as-is” basis, without any warranty of any kind by the agency.

(b) Within sixty (60) days after August 13, 2001, the policy shall be presented to the Executive Chief Information Officer and Legislative Council for review.

History. Acts 2001, No. 1410, § 4.

25-34-105. Agency authority and accounting.

(a) Each agency shall apply the administrative procedures of the Marketing and Redistribution Section of the Office of State Procurement of the Department of Finance and Administration to the sale.

(b) Within sixty (60) days after August 13, 2001, each agency shall prepare a plan to account for the sale of used equipment and present that plan for review to the Department of Finance and Administration, the Executive Chief Information Officer, and the Legislative Council.

History. Acts 2001, No. 1410, § 5.

25-34-106. Sale of surplus computer equipment and electronics.

(a) If an agency policy established under § 25-34-104 provides for the preferential sale of surplus computer and electronic equipment to agency employees, that computer and electronic equipment shall be sold at a price not less than ten percent (10%) above depreciated value as determined by the Department of Finance and Administration.

(b) If an agency policy established under § 25-34-104 provides for the preferential sale of surplus computer and electronic equipment to Arkansas public schools, that computer and electronic equipment shall be sold at a price not less than five percent (5%) above depreciated value as determined by the Department of Finance and Administration.

History. Acts 2001, No. 1410, § 6.

25-34-107. Surplus equipment not sold.

(a)(1) Unsold surplus computer and electronic equipment may be donated by the owning agency to Arkansas public schools if the agency policy so provides.

(2) Arkansas public schools are not required but may choose to accept unsold surplus computer and electronic equipment donated by the owning agency.

(b)(1) Unsold surplus computer equipment may be sent to the Marketing and Redistribution Section of the Office of State Procurement of the Department of Finance and Administration for sale, auction, recycling, donation, demanufacturing, or disposal.

(2) Alternatively, the agency may maintain possession of computers and electronics and allow the Marketing and Redistribution Section to sell or auction the computer or electronic equipment via an Internet Web site.

History. Acts 2001, No. 1410, § 7.

25-34-108. Disbursement of revenues.

Funds generated from the sale of agency surplus computer and electronic equipment to state employees, public schools, or by other sale shall be allocated as follows:

(1) If the sale of surplus computer or electronic equipment is made within the agency:

(A) Sixty percent (60%) of the proceeds shall be returned to the owning agency;

(B) Fifteen percent (15%) of the proceeds shall be deposited with the Marketing and Redistribution Section of the Office of State Procurement of the Department of Finance and Administration; and

(C) Twenty-five percent (25%) of the proceeds shall be deposited in the Computer and Electronic Recycling Fund established by this chapter;

(2) If the sale of surplus computer or electronic equipment is outside the agency and conducted by the Marketing and Redistribution Section:

(A) Fifty percent (50%) of the proceeds shall be returned to the owning agency;

(B) Twenty-five percent (25%) of the proceeds shall be deposited with the Marketing and Redistribution Section; and

(C) Twenty-five percent (25%) of the proceeds shall be deposited in the Computer and Electronic Recycling Fund established by this chapter and § 19-5-1213.

History. Acts 2001, No. 1410, § 8.

25-34-109. Computer and Electronic Recycling Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a fund to be known as the Computer and Electronic Recycling Fund.

(b) The fund shall be administered by the Arkansas Department of Environmental Quality and may be used to:

(1) Promote market research and development grants to determine the most efficient means of collecting, transporting, and processing scrap electronic equipment;

(2) Work with the Department of Finance and Administration and the Marketing and Redistribution Section of the Office of State Procurement of the Department of Finance and Administration to establish statewide contracts for computer and electronics recycling and demanufacturing businesses; and

(3) Support and fund other measures necessary to implement and promote the recycling, donation, demanufacturing, or disposal options for computers and electronic equipment.

History. Acts 2001, No. 1410, § 9.

A.C.R.C. Notes. Acts 2001, No. 1410, § 9, is also codified as § 19-5-1217.

25-34-110. Computer and electronic equipment recycling grants.

(a) Electronic equipment recycling grants must be awarded on the basis of written grant-request proposals submitted to and approved by the Arkansas Department of Environmental Quality.

(b) Grant requests shall be considered based upon the following criteria:

(1) The development of sustained processes for recovery, recycling, and demanufacturing of scrap computers and electronics;

(2) Minimization and elimination of substantial volumes of this material as waste;

(3) Creation of Arkansas jobs;

(4) Return of investment analysis; and

(5) Available funds.

History. Acts 2001, No. 1410, § 10.

25-34-111. Computer and electronic equipment landfill ban.

(a) The Arkansas Department of Environmental Quality may establish and implement rules and regulations banning the disposal of all computer and electronic equipment in Arkansas landfills.

(b) The target date for the ban to become effective is no sooner than January 1, 2005.

History. Acts 2001, No. 1410, § 12.

Index to Title 24 (9-12)

A

ACCOUNTS AND ACCOUNTING.

Local police and fire retirement system.

- Asset accounts, §24-10-403.
- Employer accumulation account, §24-10-405.
- Income-expense account, §24-10-407.
- Members' deposit account, §24-10-404.
- Retirement reserve account, §24-10-406.

ACTUARIES.

Local police and fire retirement system.

- Board of trustees.
- Appointment of actuary, §24-10-204.
- Valuations of each employers participation, §24-10-401.

AGE.

Local police and fire retirement system.

- Normal retirement age.
- Defined, §24-10-102.

APPEALS.

Municipal corporations.

- Firemen's relief and pension fund.
- Appeals to circuit court, §24-11-815.

APPROPRIATIONS.

Insurance premium tax, §24-11-810.

ATTACHMENT.

Local police and fire retirement system.

- Exemption of benefit rights, §24-10-616.

ATTORNEYS AT LAW.

Local police and fire retirement system.

- Board of trustees.
- Legal advisor of board.
- Appointment of attorney at law or firm of attorneys, §24-10-204.

Municipal corporations.

- Retirement benefits for city attorneys in first and second class cities, §24-12-120.

AUDITOR OF STATE.

Powers, §25-16-504

AUDITS AND AUDITORS.

Local police and fire retirement system.

- Board of trustees.
- Audit of records and accounts by certified public accountants.
- Arranging for, §24-10-204.

B

BANKRUPTCY AND INSOLVENCY.

Local police and fire retirement system.

- Exemption of benefit rights, §24-10-616.

BURDEN OF PROOF.

Municipal corporations.

- Pension and relief fund for paid nonuniformed employees.
- Applications for pension, §24-12-117.

C

CIRCUIT COURTS.

Appeals.

- Municipal corporations.
- Firemen's relief and pension fund.
- Appeals to circuit court, §24-11-815.

Municipal corporations.

- Firemen's relief and pension fund.
- Appeals to circuit court, §24-11-815.

COUNTIES.

Health.

- County health care plan.
- Participation by retired county officials and employees, §24-12-128.

Officers and employees.

- Retirement.
- County health care plan participation, §24-12-128.

D

DEATH.

Local police and fire retirement system.

- Annuities.
- Death of member in paid service, §24-10-608.

DEATH —Cont'd**Local police and fire retirement system** —Cont'd**Annuities** —Cont'd

Death of member in volunteer service, §24-10-609.

Limitations on death annuities, §24-10-610.

Contributions.

Disposition of accumulated contributions, §24-10-613.

Municipal corporations.

Firemen's relief and pension fund.

Benefits.

Death of active or retired member other than while employed outside department, §24-11-820.

Death of retirant or beneficiary, §24-11-822.

Pension and relief fund for paid nonuniformed employees.

Benefits, §24-12-117.

Policemen's pension and relief funds.

Benefits.

Death of active or retired member, §24-11-425.

DECEDENTS' ESTATES.**Firefighters' pension and relief fund,**
§24-11-822.**DEFINED TERMS.****Accountant.**

Local police and fire pension funds, §24-11-201.

Accumulated contributions.

Local police and fire retirement system, §24-10-102.

Actuarial equivalent.

Local police and fire retirement system, §24-10-102.

Actuary.

Local police and fire pension funds, §24-11-201.

Local police and fire retirement system, §24-10-102.

Age.

Local police and fire retirement system, §24-10-102.

Annuity.

Local police and fire retirement system, §24-10-102.

Beneficiary.

Local police and fire retirement system, §24-10-102.

Benefit program.

Local police and fire retirement system, §24-10-102.

DEFINED TERMS —Cont'd
City.

Investment advisors, §24-12-201.

Covered employment.

Local police and fire retirement system, §24-10-102.

Credited service.

Local police and fire retirement system, §24-10-102.

Dependent child.

Local police and fire retirement system, §24-10-102.

Employee.

Local police and fire retirement system, §24-10-102.

Employer.

Local police and fire retirement system, §24-10-102.

Final average pay.

Local police and fire retirement system, §24-10-102.

Firefighter.

Local police and fire retirement system, §24-10-102.

General assembly.

Local police and fire retirement system, §24-10-102.

Inflation index.

Local police and fire retirement system, §24-10-102.

Injured in the line of duty.

Local police and fire pension funds, §24-11-433.

Investment advisor.

Local police and fire retirement system, §24-10-402.

Member.

Local police and fire retirement system, §24-10-102.

Normal retirement age.

Local police and fire retirement system, §24-10-102.

Paid nonuniformed employees.

Retirement and pensions.

Local officers and employees, §24-12-101.

Paid service.

Local police and fire retirement system, §24-10-102.

Pay.

Local police and fire retirement system, §24-10-102.

Plan.

Local police and fire pension funds, §24-11-201.

Planned community property owners association.

Local police and fire pension funds, §24-11-811.

DEFINED TERMS —Cont'd**Police officer.**

Local police and fire retirement system, §24-10-102.

Political subdivisions.

Local police and fire retirement system, §24-10-102.

Regular interest.

Local police and fire retirement system, §24-10-102.

Related system.

Local police and fire retirement system, §24-10-505.

Relief fund.

Local police and fire retirement system, §24-10-102.

Retirant.

Local police and fire retirement system, §24-10-102.

Salary.

Local police and fire pension funds.
Additional benefits for certain fire fighters hired prior to January 1, 1983, §24-11-826.
Additional benefits for certain officers hired prior to January 1, 1983, §24-11-432.
Disability retirement benefits, §§24-11-423, 24-11-819.
Voluntary retirement benefits, §§24-11-422, 24-11-818.

Social security.

Local police and fire retirement system, §24-10-102.

Social security primary benefit.

Local police and fire retirement system, §24-10-102.

The amount of the benefit otherwise payable.

Local police and fire retirement system.
Redetermination of benefits, §24-10-612.

Volunteer service.

Local police and fire retirement system, §24-10-102.

DEPOSITS.**Municipal corporations.**

Pension and relief fund for paid nonuniformed employees.
Money deposited in banks, §24-12-108.
Policemen's pension and relief funds, §24-11-409.
Board to deposit money in bank, §24-11-409.

DEVISES.**Municipal corporations.**

Firemen's relief and pension fund.
Acceptance of devises, §24-11-803.

DISABLED PERSONS.**Municipal corporations.**

Pension and relief fund for paid nonuniformed employees, §§24-12-101 to 24-12-118.
See MUNICIPAL CORPORATIONS.

DRUNKENNESS.**Municipal corporations.**

Firemen's relief and pension fund.
Cessation of payments, §24-11-821.

E**ELECTIONS.****Municipal corporations.**

Firemen's relief and pension fund.
Taxation.
Levy of tax to pay pensions, §24-11-812.

EMERGENCIES.**Municipal corporations.**

Firemen's relief and pension fund.
Service of retired firemen, §24-11-819.

EPIDEMICS.**Municipal corporations.**

Firemen's relief and pension fund.
Service of retired firemen, §24-11-819.

EXECUTIONS.**Local police and fire retirement system.**

Exemption of benefit rights, §24-10-616.

F**FIRE DEPARTMENTS.****Insurance.**

Firemen's relief and pension fund.
Group insurance.
Premiums paid from relief and pension funds, §24-11-824.

Municipal corporations.

Firemen's relief and pension fund, §§24-11-801 to 24-11-833.
See MUNICIPAL CORPORATIONS.

FIREFIGHTERS.**Fire departments.**

Local police and fire retirement system, §§24-10-101 to 24-10-616.
See LOCAL POLICE AND FIRE RETIREMENT SYSTEM.

FIREFIGHTERS —Cont'd

Firefighters' pension and relief fund,
§24-11-822.

Income withholding.

Firemen's relief and pension funds.

Members' contributions, §24-11-816.

Local police and fire retirement
system.

Members' contributions, §24-10-404.

FIREMEN'S RELIEF AND PENSION FUND.

Fire protection districts, §24-11-824.

FIRE PROTECTION DISTRICTS.**Commissioners.**

Firemen's relief and pension fund.

Establishment of fund, §24-11-824.

Firemen's relief and pension fund.

Authority to establish, §24-11-824.

Beneficiaries, §24-11-824.

Board of trustees, §24-11-824.

Commissioners.

Establishment of fund, §24-11-824.

Deductions from salaries, §24-11-824.

Donations, §24-11-824.

Eligibility to establish, §24-11-824.

Gifts, §24-11-824.

Insurance.

Group insurance.

Premiums paid from relief and
pension funds, §24-11-824.

Limitations of operation, §24-11-824.

Merger of district with city or town.

Relief and pension funds merged.

Effect on board of trustees,
§24-11-824.

Procedure for operation, §24-11-824.

Resignation or discharge of employees.

Money returned from fund to
employee upon resignation or
discharge, §24-11-824.

Source of funds, §24-11-824.

Gifts.

Firemen's relief and pension fund,
§24-11-824.

Insurance.

Firemen's relief and pension fund.

Group insurance.

Premiums paid from relief and
pension funds, §24-11-824.

Merger.

City or town merged with district.

Firemen's relief and pension funds
merged.

Effect on board of trustees,
§24-11-824.

FIRES AND FIRE PREVENTION.**Firemen's relief and pension fund.**

Retired member returning to active
status, §24-11-827.

Funds.

Firemen's relief and pension fund.

Fire protection districts, §24-11-824.

Retirement.

Local police and fire retirement

system, §§24-10-101 to 24-10-616.

See LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.

FRAUD.**Local police and fire retirement system.**

Exemption of benefit rights.

Exception, §24-10-616.

Penalty, §24-10-105.

FUNDS.**Firemen's relief and pension fund.**

Fire protection districts, §24-11-824.

Generally, §24-11-824.

Municipal corporations, §§24-11-801 to
24-11-833.

See MUNICIPAL CORPORATIONS.

Fire protection districts.

Firemen's relief and pension fund,
§24-11-824.

Fires and fire prevention.

Firemen's relief and pension fund.

Fire protection districts, §24-11-824.

Municipal corporations, §§24-11-801
to 24-11-833.

See MUNICIPAL
CORPORATIONS.

FUNERALS.**Municipal corporations.**

Pension and relief fund for paid
nonuniformed employees.

Funeral expenses, §24-12-118.

Policemen's pension and relief funds.

Funeral expenses of policemen,
§24-11-430.

G**GARNISHMENT.****Local police and fire retirement system.**

Exemption of benefit rights,
§24-10-616.

GIFTS.**Fire protection districts.**

Firemen's relief and pension fund,
§24-11-824.

H**HEIRS.**

Firefighters' pension and relief fund,
§24-11-822.

I**INCOME WITHHOLDING.****Firefighters.**

- Retirement systems.
 - Firemen's relief and pension funds.
 - Members' contributions,
§24-11-816.
 - Local police and fire retirement system.
 - Members' contributions,
§24-10-404.

Police.

- Retirement systems.
 - Local police and fire retirement system.
 - Members' contributions,
§24-10-404.

Public officers and employees.

- Retirement systems.
 - Firemen's relief and pension funds.
 - Members' contributions,
§24-11-816.
 - Local police and fire retirement system.
 - Members' contributions,
§24-10-404.

INSURANCE.**Fire and police pension and review board.**

- Taxation.
 - Foreign insurance companies.
 - Administrative and actuarial expenses, §24-11-301.

Municipal corporations.

- Firemen's relief and pension fund.
 - Group insurance, §24-11-803.
- Group insurance.
 - Firemen's relief and pension fund,
§24-11-803.

Premium taxes.

- Policemen's pension and relief funds.
 - Taxation.
 - Premium of foreign insurers.
 - Appropriations, §24-11-301.
 - Generally, §24-11-302.
 - Time and procedure of payments to qualified city or town,
§24-11-303.

Taxation.

- Fire and police pension review board.
 - Administrative expenses, §24-11-301.

INSURANCE —Cont'd**Taxation —Cont'd**

- Foreign insurance companies.
 - Police officer's pension and relief funds.
 - Appropriations, §24-11-301.
 - Police officer's pension and relief funds.
 - Appropriation of tax revenues,
§24-11-301.
 - Cities and towns qualified to participate in distribution of tax revenues, §24-11-302.
 - Timing and procedure of payments to qualified city or town,
§24-11-303.

INTEREST.**Municipal corporations.**

- Pension and relief fund for paid nonuniformed employees,
§24-12-110.
- Policemen's pension and relief funds.
 - Deposit of moneys, §24-11-409.
 - Interest part of fund, §24-11-411.
 - Restoration of credited service,
§24-11-421.

INVESTMENTS.**Local police and fire retirement system, §24-10-402.****Municipal corporations.**

- Firemen's relief and pension fund.
 - Investments in bonds, §24-11-805.
- Policemen's pension and relief funds,
§24-11-410.

L**LIEUTENANT GOVERNOR.**

Salary, §25-16-101.

LOCAL GOVERNMENTS.**Definitions.**

- Trust funds, §24-9-202.

Finance.

- Trust funds, §§24-9-201 to 24-9-209.
 - See within this heading, "Trust funds."

Trust funds.

- Applicability of provisions, §24-9-203.
- Defined, §24-9-202.
- Deposits.
 - Bank accounts, §24-9-205.
 - Certificates of deposit, §24-9-206.
- Investment, §24-9-201.
 - Deposits, §§24-9-205, 24-9-206.
 - Negotiable securities, §24-9-208.
 - Registered securities, §24-9-207.

LOCAL GOVERNMENTS —Cont'd**Trust funds —Cont'd**

Securities.

Investment.

Negotiable securities, §24-9-208.

Registered securities, §24-9-207.

Listing of securities, §24-9-209.

Trust department, §24-9-204.

**LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.****Accounts and accounting.**

Asset accounts, §24-10-403.

Employer accumulation account,
§24-10-405.

Income-expense account, §24-10-407.

Members' deposit account, §24-10-404.

Retirement reserve account,
§24-10-406.**Actuaries.**

Board of trustees.

Appointment of actuary, §24-10-204.

Valuations of each employers
participation, §24-10-401.**Administration of system.**

Expenses, §24-10-408.

Age.

Normal retirement age.

Defined, §24-10-102.

Annuities.

Compulsory retirement, §24-10-605.

Death.

Limitations on death annuities,
§24-10-610.

Member in paid service, §24-10-608.

Member in volunteer service,
§24-10-609.

Defined, §24-10-102.

Disability retirement, §24-10-607.

Limitations on disability annuities,
§24-10-610.

Early retirement, §24-10-606.

Election of annuity options,
§24-10-603.

Enhancement of benefit.

Restrictions, §24-10-106.

Exemptions from legal process,
§24-10-616.

Generally, §24-10-602.

Options, §24-10-603.

Reserve value.

Payment, §24-10-614.

Temporary annuity, §24-10-602.

Termination of covered employment,
§24-10-611.

Voluntary retirement, §24-10-604.

Attachment.Exemption of benefit rights,
§24-10-616.**LOCAL POLICE AND FIRE****RETIREMENT SYSTEM —Cont'd****Attorneys at law.**

Board of trustees.

Legal advisor of board.

Appointment of attorney at law or
firm of attorneys, §24-10-204.**Audits and auditors.**

Board of trustees.

Audit of records and accounts by
certified public accountants.

Arranging for, §24-10-204.

Bankruptcy and insolvency.Exemption of benefit rights,
§24-10-616.**Benefits.**

Enhancement of benefit.

Limitations, §24-10-106.

Exemptions from legal process,
§24-10-616.

Generally, §24-10-601.

Limitations granted by acts of 1977,
§24-10-618.

Payment, §24-10-601.

Suspension of payments upon
request, §24-10-615.

Redetermination, §24-10-612.

Reserve value.

Payment, §24-10-614.

Suspension of payments upon request,
§24-10-615.

Tax exemption, §24-10-103.

Board of trustees.

Appointment of members, §24-10-201.

Audits of records and accounts.

Arranging for, §24-10-204.

Composition, §24-10-201.

Employees, §24-10-204.

Executive director.

Employment of, §24-10-204.

Investment advisor.

Appointment, §24-10-204.

Investments, §24-10-402.

Legal advisor.

Appointment of attorney at law or
firm of attorneys, §24-10-204.

Meetings, §24-10-203.

Number of members, §24-10-201.

Officers, §24-10-203.

Personnel, §24-10-204.

Qualifications of members, §24-10-201.

Quorum, §24-10-203.

Records, §24-10-205.

Reports, §24-10-205.

Rules and regulations, §24-10-203.

Terms of members, §24-10-201.

Vacancies, §24-10-202.

Filling, §24-10-202.

LOCAL POLICE AND FIRE**RETIREMENT SYSTEM —Cont'd****Chiefs.**

Credited service, §24-10-508.

Compulsory retirement.

Annuities, §24-10-605.

Contributions.

Accumulated contributions.

Defined, §24-10-102.

Disposition, §24-10-613.

Delinquent payments, §24-10-410.

Employer accumulation account,
§24-10-405.

Members' deposit account, §24-10-404.

State contributions, §24-10-408.

Proration between political
subdivision and its relief fund,
§24-10-409.

Coverage by employer, §24-10-302.

Creation, §24-10-101.

Credited service.

Chiefs, §24-10-508.

Defined, §24-10-102.

Disability, §24-10-503.

Forfeiture, §24-10-504.

Restoration, §24-10-504.

Membership in public employees'
retirement system, §24-10-505.

Military personnel, §24-10-509.

Military service, §24-10-502.

Paid service, §24-10-501.

Defined, §24-10-102.

Purchases, §24-10-506.

Related systems, §24-10-505.

Purchases, §24-10-506.

Volunteer service, §24-10-501.

Defined, §24-10-102.

Death.

Annuities.

Death of member in paid service,
§24-10-608.

Death of member in volunteer
service, §24-10-609.

Limitations on death annuities,
§24-10-610.

Contributions.

Disposition of accumulated
contributions, §24-10-613.

Definitions, §24-10-102.

Disability.

Annuities.

Disability retirement, §24-10-607.

Limitations on disability annuities,
§24-10-610.

Credited service, §24-10-503.

Early retirement.

Annuities, §24-10-606.

LOCAL POLICE AND FIRE**RETIREMENT SYSTEM —Cont'd**

Employer accumulation account,
§24-10-405.

Employers.

Coverage by employer, §24-10-302.

Defined, §24-10-102.

Executions.

Exemption of benefit rights,
§24-10-616.

Executive director, §24-10-204.

Fraud.

Exemption of benefit rights.

Exception, §24-10-616.

Penalty, §24-10-105.

Garnishment.

Exemption of benefit rights,
§24-10-616.

Income-expense account, §24-10-407.

Inflation index.

Defined, §24-10-102.

Investment advisor.

Board of trustees.

Appointment, §24-10-204.

Investments, §24-10-402.

**Limitation on benefits granted by
acts 1997, §24-10-618.**

Members' deposit account,
§24-10-404.

Membership.

Generally, §24-10-301.

Military affairs.

Credited service, §24-10-502.

Military personnel.

Credited service, §24-10-509.

Mistake or error.

Correction of errors, §24-10-104.

Municipal corporations.

Firemen's relief and pension fund.

Administration of small funds by
local police and fire retirement
system, §24-11-804.

Policemen's pension and relief funds.

Administration of small funds by
local police and fire retirement
system, §24-11-406.

Transfer of municipal police officers
from public employees' system,
§24-10-304.

**Nonprofit fire protection
organizations.**

Participation and distribution of
insurance premium tax revenues,
§24-11-810.

Objectives of system.

Financial objectives, §24-10-401.

Participation.

Rules and regulations governing,
§24-10-303.

LOCAL POLICE AND FIRE**RETIREMENT SYSTEM —Cont'd****Pay.**

Defined, §24-10-102.

Final average pay.

Defined, §24-10-102.

Penalties.

Fraud, §24-10-105.

Physical examinations of employees,
§24-10-301.**Purpose of provisions,** §24-10-101.**Reciprocal system,** §24-10-507.**Records.**

Board of trustees, §24-10-205.

Redetermination of benefits,
§24-10-612.**Relief funds.**

Defined, §24-10-102.

Proration of state revenues between
political subdivision and its relief
fund, §24-10-409.Transfer of subsidy account funds,
§24-10-411.**Reports.**

Board of trustees, §24-10-205.

Retirement reserve account,
§24-10-406.**Rules and regulations.**

Board of trustees, §24-10-203.

Participation, §24-10-303.

Subsidy account funds.

Transfers, §24-10-411.

Surviving spouses, §24-10-617.Death annuities, §§24-10-608 to
24-10-610.**Survivor health benefits,** §24-10-617.**Taxation.**

Exemption of benefits, §24-10-103.

Termination of covered employment.
Annuities, §24-10-611.**Transfer of municipal police officers
from public employees' system,**
§24-10-304.**Veterans.**

Credited service, §24-10-509.

Voluntary retirement.

Annuities, §24-10-604.

M**MERGER.****Fire protection districts.**

City or town merged with district.

Firemen's relief and pension funds
merged.Effect on board of trustees,
§24-11-824.**MILITARY AFFAIRS.****Local police and fire retirement
system.**

Credited service, §24-10-502.

Municipal corporations.

Firemen's relief and pension fund.

Credit for compulsory military
service.

Qualification, §24-11-817.

Policemen's pension and relief funds.

Procedure for purchasing credited
service for military service,
§§24-11-418, 24-11-419.**MISTAKE OR ERROR.****Local police and fire retirement
system.**

Correction of errors, §24-10-104.

MUNICIPAL CORPORATIONS.**Appeals.**

Firemen's relief and pension fund.

Appeals to circuit court, §24-11-815.

Attorneys at law.Retirement benefits for city attorneys
in first and second class cities,
§24-12-120.**Beneficiaries.**Pension and relief fund for paid
nonuniformed employees.Name and relationship of
beneficiaries furnished by
employees, §24-12-117.**Board of municipal corporations.**Increases in surviving spouse benefits,
§24-11-829.**Bond issues.**

Firemen's relief and pension fund.

Investment in bonds, §24-11-805.

Bonds, surety.

Policemen's pension and relief funds.

Custodian of fund, §24-11-408.

Treasurer, §24-11-408.

Burden of proof.Pension and relief fund for paid
nonuniformed employees.

Applications for pension, §24-12-117.

Policemen's pension and relief funds.

Right to pension, §24-11-425.

Circuit courts.

Firemen's relief and pension fund.

Appeals to circuit court, §24-11-815.

Cities of the first class.

Attorneys at law.

Retirement benefits for city
attorneys in first and second
class cities, §24-12-120.

MUNICIPAL CORPORATIONS

—Cont'd

Cities of the first class —Cont'd

City clerks.

Clerk-treasurer.

Retirement, §24-12-121.

Pay, §24-12-121.

Deputies.

Retirement, §24-12-122.

Pay, §24-12-122.

Retirement, §24-12-121.

Pay, §24-12-121.

City treasurers.

Retirement, §24-12-121.

Amount of benefits, §24-12-125.

Benefits, §24-12-125.

Pay, §24-12-121.

Mayors.

Retirement.

Benefits, §24-12-123.

Continuation of prior benefits,
§24-12-123.

Eligibility, §24-12-123.

Survivor benefits for spouse,
§24-12-123.Effect of provisions on retired
mayors.Continuation of prior benefits,
§24-12-123.Survivor benefits for spouse,
§24-12-123.

Retirement.

City attorneys, §24-12-120.

City clerks, §24-12-121.

Pay, §24-12-121.

City treasurers, §24-12-121.

Amount of benefits, §24-12-125.

Benefits, §24-12-125.

Pay, §24-12-121.

Clerk-treasurers, §24-12-121.

Pay, §24-12-121.

County health care plan

participation, §24-12-128.

Deputy city clerks, §24-12-122.

Pay, §24-12-122.

City treasurers.

Policemen's pension and relief funds.

Treasurer custodian of fund,
§24-11-408.**Death.**

Firemen's relief and pension fund.

Benefits.

Death of active or retired member
other than while employed
outside department,
§24-11-820.Death of retirant or beneficiary,
§24-11-822.**MUNICIPAL CORPORATIONS**

—Cont'd

Death —Cont'dPension and relief fund for paid
nonuniformed employees.

Benefits, §24-12-117.

Policemen's pension and relief funds.
Benefits.Death of active or retired member,
§24-11-425.**Definitions.**

Injured in the line of duty, §24-11-433.

Pension and relief fund for paid
nonuniformed employees,
§24-12-101.

Pensions.

Disclosure of condition of pension,
§24-11-201.

Policemen's pension and relief funds.

Injured in the line of duty,
§24-11-433.**Deposits.**Pension and relief fund for paid
nonuniformed employees.Money deposited in banks,
§24-12-108.Policemen's pension and relief funds,
§24-11-409.Board to deposit money in bank,
§24-11-409.**Devises.**

Firemen's relief and pension fund.

Acceptance of devises, §24-11-803.

Drunkenness.

Firemen's relief and pension fund.

Cessation of payments, §24-11-821.

Elections.

Firemen's relief and pension fund.

Taxation.

Levy of tax to pay pensions,
§24-11-812.Pension and relief fund for paid
nonuniformed employees.

Form of ballot, §24-12-103.

Vote on act required, §24-12-103.

Policemen's pension and relief funds.

Submission of question to voters,
§24-11-402.

Tax levy.

Cities of first and second class,
§24-11-404.Vote required to make act effective,
§24-11-402.**Emergencies.**

Firemen's relief and pension fund.

Service of retired firemen,
§24-11-819.

MUNICIPAL CORPORATIONS

—Cont'd

Epidemics.

Firemen's relief and pension fund.
Service of retired firemen,
§24-11-819.

Examinations.

Firemen's relief and pension fund.
Disabled firemen, §24-11-819.

Executions.

Pension and relief fund for paid
nonuniformed employees.
Exemption from seizure or levy,
§24-12-114.

Felonies.

Firemen's relief and pension fund.
Cessation of payments, §24-11-821.

Fire departments.

Pensions.
Fire and police pension review board,
§24-11-203.

Firemen's relief and pension fund.

Actuarial valuation of plan,
§24-11-205.
Appeals to circuit court, §24-11-815.
Removal or discharge without cause,
§24-11-821.
Applicability of provisions, §24-11-832.
Appropriation of insurance premium
tax, §24-11-809.
Acceptance of appropriations,
§24-11-803.
Additional revenues.
Apportionment, §24-11-810.
Apportionment of additional
revenues, §24-11-810.
Certified lists, §24-11-809.
Commissioner and companies to
report, §24-11-809.
Reports.
Commissioner and companies to
report, §24-11-809.
Benefits.
Additional benefits.
Certain firefighters hired prior to
January 1, 1983, §24-11-826.
Death of active or retired member
other than while employed
outside department, §24-11-820.
Death of retirant or beneficiary,
§24-11-822.
Deferred retirement option plan,
§24-11-830.
Disability retirement, §24-11-819.
Increase in surviving spouse
benefits, §24-11-829.
Voluntary retirement, §24-11-818.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Board of trustees.
Composition, §24-11-801.
Direction of members, §24-11-801.
Disbursement of funds, §24-11-802.
Expenses.
Payment, §24-11-803.
Lists of pensions furnished,
§24-11-802.
Meetings, §24-11-802.
Quorum, §24-11-802.
Officers, §24-11-801.
Payment of expenses, §24-11-803.
Powers, §24-11-803.
Quorum, §24-11-802.
Records.
Proceedings, §24-11-802.
Reports, §24-11-801.
Rules and regulations, §24-11-803.
Power to make, §24-11-801.
Terms of members, §24-11-801.
Testimony of witnesses, §24-11-803.
Witnesses.
Testimony, §24-11-803.
Bond issues.
Investment in bonds, §24-11-805.
Certain firefighters hired prior to
January 1, 1983.
Additional benefits for, §24-11-826.
Certificate of service, §24-11-818.
Certificates of disability, §24-11-819.
Cessation of payments under certain
conditions, §24-11-821.
Clerks.
Report to be filed by clerk,
§24-11-813.
Confinement in hospitals, §24-11-819.
Death benefits.
Death of active or retired member
other than while employed
outside department, §24-11-820.
Death of retirant or beneficiary,
§24-11-822.
Increase in surviving spouse
benefits, §24-11-829.
Deferred retirement option plan,
§24-11-830.
Drunkenness.
Cessation of payments, §24-11-821.
Elections.
Levy of tax to pay pensions,
§24-11-812.
Employment.
Reemployment of retired member,
§24-11-827.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Epidemics, conflagrations or emergencies.

Service of retired firemen,
§24-11-819.

Examinations.

Disabled firemen, §24-11-819.

Felonies.

Cessation of payments under certain conditions, §24-11-821.

Fire and police pension review board,
§24-11-203.

Fire protection districts, §24-11-824.

Fire-related service, §24-11-833.

Future supplement funds, §24-11-212.

Gifts and donations.

Acceptance of gifts, §24-11-803.

Group insurance, §24-11-803.

Increase in benefits.

Fire and police pension funds
authorized to increase,
§24-11-102.

Conditions, §24-11-102.

Contents of evaluation, §24-11-103.

Cost of actuarial evaluation,
§24-11-103.

Legislative intent, §24-11-101.

Total permanent disability.

Conditions, §24-11-823.

Insurance.

Group insurance, §24-11-803.

Insurance premium taxes, §24-11-831.

Insurance premium tax revenues.

Planned community property owners
association.Participation in distribution,
§24-11-811.

Investment in bonds, §24-11-805.

Involvement in fire department after
retirement, §24-11-818.

Reemployment, §24-11-827.

Local police and fire retirement
system.Administration of small funds by,
§24-11-804.

Military affairs.

Credit for compulsory military
service.

Qualification, §24-11-817.

Money used solely for purpose of fund,
§24-11-805.

Options to defer, §24-11-830.

Participation in fund.

Act supplemental, §24-11-816.

Administration of funds, §24-11-816.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Participation in fund —Cont'd

Contributions by municipality or fire
protection district, §24-11-816.

Deductions from salary, §24-11-816.

Use of deductions, §24-11-816.

Election not to participate,
§24-11-816.Failure to file statement or allow
deductions, §24-11-816.Reemployment of retired member,
§24-11-827.

Resignation or discharge, §24-11-816.

Refund, §24-11-816.

Statement of persons desiring to
participate, §24-11-816.

Contents, §24-11-816.

Failure to file statement or allow
deductions, §24-11-816.

Effect, §24-11-816.

Supplemental nature of act,
§24-11-816.Use of deductions and contributions,
§24-11-816.

Payments.

Appeals to circuit court, §24-11-815.

Fund prorated when insufficient,
§24-11-807.

Minimum payment, §24-11-807.

Not subject to attachment,
assignment or transfer,
§24-11-814.Priority of hospital payments,
§24-11-807.

Exceptions, §24-11-807.

Upon vouchers, §24-11-806.

Pension based upon rank, §24-11-818.

Planned community property owners
association.

Defined, §24-11-811.

Participation in distribution of
insurance premium tax revenues,
§24-11-811.

Rank.

Pension based upon rank,
§24-11-818.Reemployment of retired member,
§24-11-827.Removal or discharge without cause,
§24-11-821.

Appeal to circuit court, §24-11-821.

Reports.

Board of trustees, §24-11-801.

Clerk to file, §24-11-813.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Retired member returning to active service, §24-11-827.

Retirement upon physical or mental disability, §24-11-819.

Certificates of disability, §24-11-819.

Restoration to service, §24-11-819.

Right of retirement, §24-11-818.

Right to participate vested, §24-11-818.

Rules and regulations.

Board of trustees.

Power to make, §24-11-801.

Salaries.

Deductions from salary, §24-11-816.

Administration of funds,
§24-11-816.Failure to allow deductions,
§24-11-816.

Refund upon resignation or discharge, §24-11-816.

Use of deductions, §24-11-816.

Service with more than one fire department, §24-11-825.

Sole purpose of money.

Fund purposes, §24-11-805.

Survivor benefits.

Fire and police pension funds authorized to increase,
§24-11-102.

Conditions, §24-11-102.

Contents of evaluation, §24-11-103.

Cost of actuarial evaluation,
§24-11-103.

Legislative intent, §24-11-101.

Spousal increases, §24-11-829.

Taxation.

Levy of tax to pay pensions,
§24-11-812.

Administration, §24-11-812.

By city council, §24-11-812.

Collection, §24-11-812.

Elections.

Vote upon tax question,
§24-11-812.

Money turned over to board of trustees, §24-11-812.

Tax fund supplemental to other funds, §24-11-812.

Vote upon tax question, §24-11-812.

Total permanent disability.

Increase in benefits for certain persons retired due to total permanent disability.

Conditions, §24-11-823.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Vesting of right to participate,
§24-11-818.

Voluntary retirement.

Benefits, §24-11-818.

Vouchers.

Payments monthly upon proper vouchers, §24-11-806.

Funerals.

Pension and relief fund for paid nonuniformed employees.

Funeral expenses, §24-12-118.

Policemen's pension and relief funds.

Funeral expenses of policemen,
§24-11-430.Retroactivity of 1983 amendment,
§24-11-430.**Hearings.**

Pension and relief fund for paid nonuniformed employees.

Board of trustees, §24-12-105.

Insurance.

Firemen's relief and pension fund.

Group insurance, §24-11-803.

Group insurance.

Firemen's relief and pension fund,
§24-11-803.**Interest.**Pension and relief fund for paid nonuniformed employees,
§24-12-110.Policemen's pension and relief funds,
§24-11-409.

Deposit of moneys, §24-11-409.

Interest part of fund, §24-11-411.

Restoration of credited service,
§24-11-421.**Investment advisors.**Pension and relief fund for paid nonuniformed employees,
§§24-12-201 to 24-12-204.**Investments.**

Firemen's relief and pension fund.

Investments in bonds, §24-11-805.

Policemen's pension and relief funds,
§24-11-410.Investment of funds in securities,
§24-11-410.**Mayors.**

Monthly benefit increase, §24-12-131.

Military affairs.

Firemen's relief and pension fund.

Credit for compulsory military service.

Qualification, §24-11-817.

MUNICIPAL CORPORATIONS

—Cont'd

Military affairs —Cont'd

- Policemen's pension and relief funds.
- Procedure for purchasing credited service for military service, §§24-11-418, 24-11-419.

Penalties.

- Policemen's pension and relief funds.
- Fines and forfeitures added to fund, §24-11-413.

Pension and relief fund for paid nonuniformed employees.

- Amount prorated, §24-12-112.
- Applicability of act, §24-12-102.
- Application for pension, §24-12-117.
- Proof required, §24-12-117.

Banks.

- Deposit of money in bank, §24-12-108.

Beneficiaries.

- Name and relationship furnished by employees, §24-12-117.

Benefits.

- Death, §24-12-117.
- Permanent total disability retirement, §24-12-116.
- Temporary total disability retirement, §24-12-115.
- Voluntary retirement, §24-12-115.

Board of trustees.

- Control and management of fund by board, §24-12-105.
- Hearings, §24-12-105.
- Membership, §24-12-105.
- Records.
- Proceedings, §24-12-105.
- Terms of office, §24-12-105.

Bonds, surety.

- Treasurer, §24-12-107.

Condition of fund.

- Reports, §24-12-113.

Custodian of fund.

- Bonds, surety, §24-12-107.
- Treasurer, §24-12-107.

Death of employee.

- Rights of dependents, §24-12-117.

Definitions, §24-12-101.**Deposits.**

- Money deposited in bank, §24-12-108.
- Securities, §24-12-109.

Elections.

- Form of ballot, §24-12-103.
- Vote on act required, §24-12-103.
- Form of ballot, §24-12-103.

Exemption from seizure or levy, §24-12-114.**MUNICIPAL CORPORATIONS**

—Cont'd

Pension and relief fund for paid nonuniformed employees —Cont'd

- Funeral expenses, §24-12-118.
- Hearings.
- Board of trustees, §24-12-105.
- Inapplicable to certain cities, §24-12-102.
- Insufficiency of fund, §24-12-112.
- Interest, §24-12-110.
- Investment advisor, §§24-12-201 to 24-12-204.
- Authority to employ, §24-12-202.
- City, defined, §24-12-201.
- Construction, §24-12-204.
- Immunity, §24-12-203.
- Jurisdiction, §24-12-203.
- Power to invest, §24-12-201.
- Investment of funds, §24-12-109.
- Levy.

- Fund exempt from seizure or levy, §24-12-114.

Money added to fund, §24-12-111.**Name and relationship of beneficiaries furnished by employees, §24-12-117.****Payments from fund, §24-12-110.****Proration of amount, §24-12-112.****Records.**

- Board of trustees.
- Record of proceedings, §24-12-105.
- Book of retired employees, §24-12-106.
- Record of proceedings, §24-12-105.

Refunds.

- No refunds allowed, §24-12-111.

Relationship of beneficiaries furnished by employees, §24-12-117.**Reports.**

- Condition of fund, §24-12-113.

Right of dependents on death of employee, §24-12-117.**Seizure.**

- Fund exempt from seizure or levy, §24-12-114.

Taxation.

- Tax levy to support fund, §24-12-104.

Treasurer.

- Bonds, surety, §24-12-107.
- Custodian of fund, §24-12-107.
- Vote on act required, §24-12-103.

Pensions.**Definitions.**

- Disclosure of condition of pension, §24-11-201.

Disclosure of condition of pension.

- Actuarial valuation, §24-11-205.

MUNICIPAL CORPORATIONS

—Cont'd

Pensions —Cont'd

Disclosure of condition of pension

—Cont'd

Administration of underfunded plans, §24-11-208.

Annual accountant's report, §24-11-207.

Contents, §24-11-207.

Annual financial report, §24-11-206.

Definitions, §24-11-201.

Executive director.

Certification of noncompliance with act, §24-11-202.

General financial objective of plan, §24-11-204.

Noncompliance with act, §24-11-202.

Reports.

Annual accountant's report, §24-11-207.

Annual financial report, §24-11-206.

Executive director.

Disclosure of condition of pension.

Certification of noncompliance with act, §24-11-202.

Fire and police pension guarantee fund, §24-11-209.

Fire and police pension review board, §24-11-303.

Policemen's pension supplement program, §24-11-211.

Future supplement funds, §24-11-212.

Requirements for qualified plans, §24-11-210.

Underfunded plans.

Administration, §24-11-208.

Fire and police pension guarantee fund, §24-11-209.

Petitions.

Policemen's pension and relief funds.

Vote required to make act effective.

Petition to submit, §24-11-402.

Planned community property owners association.

Defined, §24-11-811.

Firemen's pension and relief fund.

Participation in distribution of insurance premium tax revenues, §24-11-811.

Police departments.

Fire and police pension review board, §24-11-203.

Policemen's pension and relief funds.

Actuarial evaluation, §24-11-426.

Valuation of plan, §24-11-205.

MUNICIPAL CORPORATIONS

—Cont'd

Policemen's pension and relief funds

—Cont'd

Additions to fund.

Proceeds derived from sale of confiscated goods, §24-11-415.

Applicability of provisions, §24-11-401.

Inapplicable to cities already having pension and relief fund, §24-11-401.

Application for pension, §24-11-425.

Arkansas fire and police pension guarantee fund.

Benefits.

Buy out option, §24-11-435.

Beneficiaries.

Name to be on file, §24-11-425.

Benefits.

Benefits of dependents of policemen killed or dying in performance of duty or dying while retired, §24-11-425.

Educational payments, §24-11-425.

Limitations, §24-11-425.

Death of active or retired member, §24-11-425.

Disability retirement, §24-11-423.

Partial disability benefits, §24-11-433.

Increase.

Work beyond twenty-fifth year, §24-11-432.

Monthly minimum benefit, §24-11-424.

Optional vesting rights policy, §24-11-426.

Retirant receiving less than one-half salary, §24-11-424.

Voluntary retirement, §24-11-422.

Board of trustees.

Composition, §24-11-405.

Duties, §24-11-405.

Reports.

Condition of fund, §24-11-412.

Rules and regulations, §24-11-405.

Terms of members, §24-11-405.

Bonds, surety.

Cities of the first class.

Custodian of fund, §24-11-408.

Custodian of fund, §24-11-408.

Treasurer, §24-11-408.

Buy out option, §24-11-435.

Cities of the first class.

Elections.

Tax levy, §24-11-404.

Tax levy, §24-11-404.

MUNICIPAL CORPORATIONS

- Cont'd
- Policemen's pension and relief funds**
 - Cont'd
 - Cities of the second class.
 - Elections.
 - Tax levy, §24-11-404.
 - Tax levy, §24-11-404.
 - City treasurers.
 - Treasurer custodian of fund, §24-11-408.
 - Condition of fund.
 - Board to report on, §24-11-412.
 - Confiscation.
 - Sale of confiscated goods.
 - Proceeds deposited into fund, §24-11-415.
 - Contributions, §24-11-413.
 - Salary deductions, §24-11-413.
 - Return, §24-11-428.
 - Creation, §24-11-403.
 - Credited service.
 - Military service, §24-11-436.
 - Purchase of military service by active police in cities of 75,000 or more, §24-11-419.
 - Purchase of military service by past or present members, §24-11-418.
 - Police-related service, §24-11-438.
 - Purchase of former law enforcement service, §24-11-437.
 - Restoration, §24-11-421.
 - Custodian of fund.
 - Bonds, surety, §24-11-408.
 - Treasurer custodian, §24-11-408.
 - Data kept in records.
 - List of retired policemen, §24-11-407.
 - Death.
 - Benefits, §24-11-425.
 - Deferred retirement option plan, §24-11-434.
 - Deposit of securities, §24-11-410.
 - Deposits, §24-11-409.
 - Interest, §24-11-409.
 - Moneys deposited in bank, §24-11-409.
 - Disability retirement.
 - Benefits, §24-11-423.
 - Partial disability benefits, §24-11-433.
 - Elections.
 - Submission of question to voters, §24-11-402.
 - Tax levy.
 - Cities of first and second class, §24-11-404.

MUNICIPAL CORPORATIONS

- Cont'd
- Policemen's pension and relief funds**
 - Cont'd
 - Elections —Cont'd
 - Vote required to make act effective, §24-11-402.
 - Form of question on ballot, §24-11-402.
 - Petition to submit, §24-11-402.
 - Submittal of provisions, §24-11-402.
 - Election to withdraw contributions, §24-11-426.
 - Exemption from legal process, §24-11-417.
 - Fines and forfeitures.
 - Moneys added to fund, §24-11-413.
 - Fire and police pension review board, §24-11-203.
 - Funeral expenses of police officers, §24-11-430.
 - Legislative intent, §24-11-430.
 - Retroactivity of 1983 amendment, §24-11-430.
 - Future supplement funds, §24-11-212.
 - Inapplicability of provisions.
 - Cities already having pension and relief fund, §24-11-401.
 - Increase in benefits.
 - Work beyond twenty-fifth year, §24-11-432.
 - Injury in the line of duty.
 - Defined, §24-11-433.
 - Insufficiency of fund, §24-11-416.
 - Interest.
 - Constitutes part of fund, §24-11-411.
 - Deposit of money, §24-11-409.
 - Restoration of credited service, §24-11-421.
 - Investments, §24-11-410.
 - Leaves of absence.
 - Vacation pay, §24-11-429.
 - Legislative intent, §24-11-430.
 - List of retired police officers, §24-11-407.
 - Local police and fire retirement system.
 - Administration of small funds by, §24-11-406.
 - Military affairs.
 - Procedure for purchasing credit for military service, §§24-11-418, 24-11-419.
 - Money not subject to process, §24-11-417.
 - Name of beneficiary of death benefits to be on file, §24-11-425.

MUNICIPAL CORPORATIONS

—Cont'd

Policemen's pension and relief funds

—Cont'd

- Optional vesting rights policy, §24-11-426.
- Option to defer, §24-11-434.
- Partial disability pensions, §24-11-433.
- Payments from fund upon warrants, §24-11-411.
- Penalties.
 - Fines and forfeitures added to fund, §24-11-413.
- Petitions.
 - Vote required to make act effective.
 - Petition to submit, §24-11-402.
- Proof of right to pension, §24-11-425.
- Proration upon insufficiency of fund, §24-11-416.
- Purchase of credited service by active police in cities of 75,000, §24-11-419.
- Actuarial determination.
 - Basis, §24-11-419.
 - When fund deemed actuarially sound, §24-11-419.
- Basis of actuarial determination, §24-11-419.
- Increase in benefits, §24-11-419.
- Military service.
 - Purchasing credit, §24-11-419.
- Procedure for purchasing credit for military service, §24-11-419.
- When fund deemed actuarially sound, §24-11-419.
- Purchase of credited service by past or present members of fund, §24-11-418.
- Qualifications, §24-11-418.
- Purposes, §24-11-417.
- Records, §24-11-407.
 - List of retired policemen, §24-11-407.
 - Data kept in record, §24-11-407.
- Reports.
 - Board to report condition of fund, §24-11-412.
- Right to pension.
 - Proof, §24-11-425.
- Rules and regulations.
 - Board of trustees, §24-11-405.
- Salary deductions, §24-11-413.
- Return, §24-11-428.
- Scope of provisions, §24-11-401.
- Sources, §24-11-413.
 - Sale of confiscated goods.
 - Proceeds from, §24-11-415.
- Summons and process.
 - Money not subject to process, §24-11-417.

MUNICIPAL CORPORATIONS

—Cont'd

Policemen's pension and relief funds

—Cont'd

- Survivor benefits.
 - Fire and police pension funds authorized to increase, §24-11-102.
- Conditions, §24-11-102.
- Contents of evaluation, §24-11-103.
- Cost of actuarial evaluation, §24-11-103.
- Legislative intent, §24-11-101.
- Taxation.
 - Premium tax of foreign insurers.
 - Cities and towns qualified to participate in distribution of tax revenues.
 - Appropriations, §24-11-301.
 - Generally, §24-11-302.
 - Timing and procedure of payments to qualified city or town, §24-11-303.
 - Tax levy, §24-11-403.
 - Cities of first and second class, §24-11-404.
- Treasurer.
 - Bonds, surety, §24-11-408.
 - Custodian of fund, §24-11-408.
- Vacation pay, §24-11-429.
- Vesting rights policy.
 - Optional vesting rights policy, §24-11-426.
- Voluntary retirement.
 - Benefits, §24-11-422.
- Vote required to make act effective, §24-11-402.
 - Form of question on ballot, §24-11-402.
 - Petition to submit, §24-11-402.
 - When submitted, §24-11-402.
- Warrants for payment of money.
 - Payments from fund, §24-11-411.
- Withdrawal of accumulated contributions, §24-11-426.
- Policemen's pension supplement program**, §24-11-211.
- Future supplement fund, §24-11-212.
- Records.**
 - Firemen's relief and pension fund.
 - Board of trustees.
 - Records of proceedings, §24-11-802.
 - Pension and relief fund for paid nonuniformed employees.
 - Board of trustees.
 - Record of proceedings, §24-12-105.

MUNICIPAL CORPORATIONS

—Cont'd

Records —Cont'dPolicemen's pension and relief funds,
§24-11-407.

List of retired policemen.

Data kept in record, §24-11-407.

Reports.

Firemen's relief and pension fund.

Board of trustees, §24-11-801.

Pension and relief fund for paid
nonuniformed employees.

Condition of fund, §24-12-113.

Pensions.

Policemen's pension and relief funds.

Condition of fund, §24-11-412.

Policemen's pension and relief funds.
Board of trustees.

Condition of fund, §24-11-412.

Retirement.

Cities of the second class.

Mayors, §24-12-124.

Municipal health care plan.

Limitation on benefits provided by
acts 1997, §24-12-130.Participation by retired officials and
employees, §24-12-129.**Rules and regulations.**

Firemen's relief and pension fund.

Board of trustees, §24-11-803.

Power to make, §24-11-801.

Policemen's pension and relief funds.
Board of trustees, §24-11-405.**Salaries.**

Firemen's relief and pension fund.

Deductions from salary, §24-11-816.

Administration of funds,
§24-11-816.Failure to allow deductions,
§24-11-816.Refund upon resignation or
discharge, §24-11-816.

Use of deductions, §24-11-816.

Second-class cities.

Attorneys at law.

City attorneys.

Retirement benefits, §24-12-120.

City recorders.

Recorder-treasurer.

Retirement, §24-12-127.

City treasurers.

Recorder-treasurer.

Retirement, §24-12-127.

Retirement, §24-12-127.

Mayors.

Retirement.

Benefits, §24-12-124.

Continuation of benefits of
retired mayors, §24-12-124.**MUNICIPAL CORPORATIONS**

—Cont'd

Second-class cities —Cont'd

Mayors —Cont'd

Retirement —Cont'd

Benefits —Cont'd

Eligibility, §24-12-124.

Continuation of benefits of retired
mayors, §24-12-124.

Recorder-treasurer.

Retirement, §24-12-127.

Retirement.

City recorders.

Recorder-treasurer, §24-12-127.

City treasurers.

Recorder-treasurer, §24-12-127.

Mayors, §24-12-124.

Taxation.

Firemen's relief and pension fund.

Levy of tax to pay pensions,
§24-11-812.Pension and relief fund for paid
nonuniformed employees.

Tax levy to support fund, §24-12-104.

Policemen's pension and relief funds.

Tax levy, §24-11-403.

Cities of first and second class,
§24-11-404.**Treasurers.**Pension and relief fund for paid
nonuniformed employees.

Bonds, surety, §24-12-107.

Custodian of fund, §24-12-107.

Warrants for payment of money.

Policemen's pension and relief funds.

Payments from fund, §24-11-411.

Witnesses.

Firemen's relief and pension fund.

Testimony of witnesses, §24-11-803.

P**PENSIONS.****Fire protection districts.**Firemen's relief and pension fund,
§24-11-824.**PETITIONS.****Municipal corporations.**

Policemen's pension and relief funds.

Vote required to make act effective.

Petitions to submit, §24-11-102.

POLICE.**Municipal corporations.**

Policemen's pension and relief fund.

Generally, §§24-11-401 to 24-11-438.

Policemen's pension and relief fund.Municipal corporations, §§24-11-401 to
24-11-438.

POLICE —Cont'd**Retirement.**

Local police and fire retirement system, §§24-10-101 to 24-10-618.

POLICEMEN'S PENSION AND RELIEF FUNDS, §§24-11-401 to 24-11-438.**PUBLIC EMPLOYEES' RETIREMENT SYSTEM.****Local police and fire retirement system.**

Credited service.

Membership in local police and fire retirement system, §24-10-505.

Membership.

Cities with population less than 50,000.

Option to participate in retirement system, §24-12-126.

Municipalities.

Participation in system.

Cities with population less than 50,000.

Option to participate, §24-12-126.

PUBLIC OFFICERS AND EMPLOYEES.**Income withholding.**

Retirement systems.

Local police and fire retirement system.

Members' contributions, §24-10-404.

R**RECORDS.****Local police and fire retirement system.**

Board of trustees, §24-10-205.

Municipal corporations.

Firemen's relief and pension fund.

Board of trustees.

Records of proceedings, §24-11-802.

Pension and relief fund for paid nonuniformed employees.

Board of trustees.

Record of proceedings, §24-12-105.

Policemen's pension and relief funds, §24-11-407.

REPORTS.**Auditor of state.**

Quarterly report to governor, §§21-7-302, 25-16-514.

Local police and fire retirement system.

Board of trustees, §24-10-205.

RETIREMENT.**Definitions.**

Local police and fire retirement system, §24-10-102.

Fire prevention.

Local police and fire retirement system, §§24-10-101 to 24-10-618.

Local police and fire retirement system, §§24-10-101 to 24-10-618.**Municipal corporations.**

Pension and relief fund for paid nonuniformed employees.

General provisions, §§24-12-101 to 24-12-118.

Second class cities.

Mayors, §24-12-124.

Police.

Local police and fire retirement system, §§24-10-101 to 24-10-618.

Public officers and employees.

Local police and fire retirement system, §§24-10-101 to 24-10-618.

S**SUMMONS AND PROCESS.****Municipal corporations.**

Policemen's pension and relief funds.

Money not subject to process, §24-11-417.

SURVIVING SPOUSES.**Local police and fire retirement system.**

Death annuities, §§24-10-608 to 24-10-610.

T**TAXATION.****Insurance.**

Fire and police pension review board. Administrative and actuarial expenses, §24-11-301.

Foreign insurance companies.

Fire and police pension review board.

Administrative and actuarial expenses, §24-11-301.

Police officer's pension and relief funds.

Appropriations, §24-11-301.

Police officer's pension and relief funds.

Appropriation of tax revenues, §24-11-301.

Cities and towns qualified to participate in distribution of tax revenues, §24-11-302.

Timing and procedure of payments to qualified city or town, §24-11-303.

TAXATION —Cont'd**Local police and fire retirement system.**

Exemption of benefits, §24-10-103.

TREASURERS.**Municipal corporations.**

Pensions and relief fund for paid nonuniformed employees, §24-12-107.

TRUST FUNDS.

Local governments, §§24-9-201 to 24-9-209.

V**VETERANS.****Local police and fire retirement system.**

Credited service, §24-10-509.

W**WITNESSES.****Municipal corporations.**

Firemen's relief and pension fund.

Testimony of witnesses, §24-11-803.

Index to Title 25

A

ACCOUNTANTS.

Treasurer of state.

Examination of books.

Accountants appointed by governor,
§25-16-614.

ACCOUNTS AND ACCOUNTING.

Auditor of state.

Certification of payments, §25-16-509.

Duties of auditors, §25-16-505.

Examination of books.

Joint legislative committee,
§25-16-512.

Ex officio state accountant, §25-16-510.

Joint legislative committee to examine
books, §25-16-512.

Preservation of account, §25-16-511.

Treasurer of state.

Accountants appointed by governor.

Fees, §25-16-614.

Duties, §25-16-604.

Examination of books.

Accountants appointed by governor,
§25-16-614.

Divulging appointment.

Accountant not to divulge,
§25-16-614.

Free access to books, §25-16-614.

Joint legislative committee,
§25-16-615.

Joint legislative committee to examine
books, §25-16-615.

ACTIONS.

Administrative procedure.

Agency failing to act, §25-15-214.

Attorney general.

Defaulting officers.

Suits against officers indebted to
state, §25-16-709.

Assistant attorneys.

Employment, §25-16-709.

Failure to bring suit.

Employment of attorney by
governor, §25-16-709.

Money due state.

Collection.

Generally, §25-16-708.

ACTS.

Publishing and distribution,
§25-18-225.

ADMINISTRATIVE PROCEDURE.

Actions.

Agency failing to act, §25-15-214.

Adjudication.

Appeals.

Judicial review, §25-15-212.

Decisions, §25-15-210.

Ex parte communications,
§25-15-209.

Defined, §25-15-202.

Ex parte communications, §25-15-209.

Failure or refusal of agency to act.

Actions, §25-15-214.

Hearings, §§25-15-208, 25-15-213.

Judicial review, §25-15-212.

Oral argument, §25-15-210.

Procedure, §25-15-208.

Records, §25-15-208.

Agencies.

Defined, §25-15-202.

Appeals.

Adjudication.

Judicial review, §25-15-212.

Rules and regulations.

Judicial review of rules, §25-15-207.

Arkansas register.

Contents, §25-15-205.

Proceeds from sale.

Deposit, §25-15-205.

Report on publication, §25-15-205.

Secretary of state.

Duties as to, §25-15-205.

Assessment coordination department.

Subject to act, §25-28-104.

Attorneys at law.

Adjudication.

Hearings.

Right to counsel, §25-15-213.

Stay of proceedings where party or
attorney is member or employee of
general assembly, §25-15-103.

Burden of proof.

Adjudication, §25-15-213.

Citation of act.

Short title, §25-15-201.

Contempt.

Adjudication.

Failure to respond to subpoena or
take oath or respond as witness,
§25-15-213.

ADMINISTRATIVE PROCEDURE

—Cont'd

Deaf persons.

Interpreters for the deaf, §25-15-102.

Declaratory judgments.

Rules and regulations.

Applicability of rule, §§25-15-206,
25-15-207.**Definitions,** §25-15-202.**Emergencies.**

Rulemaking, §25-15-204.

General assembly.Stay of proceedings in which party or
attorney is member of employee of
general assembly, §25-15-103.**Hearing impaired persons.**

Interpreters for the deaf, §25-15-102.

Hearings.

Adjudication, §§25-15-208, 25-15-213.

Rules and regulations.

Adoption of rules, §25-15-204.

Interpreters.

Appointment, §25-15-101.

Deaf persons.

Interpreters for the deaf, §25-15-102.

Generally, §25-15-101.

Oath, §25-15-101.

Judicial notice.

Adjudication, §25-15-213.

Licenses.

Definitions, §25-15-202.

Proceedings as to, §25-15-211.

Revocation or suspension of licenses,
§25-15-211.**Model rules,** §25-15-215.**Notice.**

Adjudication, §25-15-208.

Licenses.

Proceedings as to, §25-15-211.

Rules and regulations.

Adoption, §25-15-204.

Oaths.

Interpreters, §25-15-101.

Parties.

General assembly.

Stay of proceedings where party or
attorney is member or employee
of general assembly, §25-15-103.**Penalties authorized as sanctions,**
§25-15-217.**Records.**

Adjudication, §25-15-208.

**Review of laws for application to
rules,** §25-15-216.**Rules and regulations.**

Adoption of rules.

Procedure, §25-15-204.

Arkansas register, §25-15-205.

ADMINISTRATIVE PROCEDURE

—Cont'd

Rules and regulations —Cont'dDeclaratory orders as to applicability
of rule, §25-15-206.

Definitions, §25-15-202.

Emergency rules, §25-15-204.

Failure or refusal of agency to act.

Actions, §25-15-214.

Judicial review of rules, §25-15-207.

Model rules, §25-15-215.

Notice.

Adoption of rules, §25-15-204.

Required rules, §25-15-203.

Sanctions authorized, §25-15-217.**Stays.**

General assembly.

Stay of proceedings where party or
attorney is member or employee
of general assembly, §25-15-103.**Subpoenas.**

Adjudication, §25-15-213.

Power of boards and commissions,
§25-15-104.**Title of act.**

Short title, §25-15-201.

Witnesses.

Adjudication, §25-15-213.

ADOPTION.**Freedom of information.**Records deemed not public records,
§25-19-105.**Records.**

Freedom of information.

Records deemed not public records,
§25-19-105.**AFFIDAVITS.****State institutions.**

Claims.

Presenting of claims, §25-17-102.

AGENCIES.**Administrative procedure.**

Definitions, §25-15-202.

Publication of opinions and orders,
§25-18-224.**AMBASSADOR'S CERTIFICATES,**
§25-16-405.**APPEALS.****Administrative procedure.**

Adjudication.

Judicial review, §25-15-212.

Rules and regulations.

Judicial review of rules, §25-15-207.

Boards and commissions.

Removal of members.

Review of removal orders.

Appeal from circuit court decisions,
§25-16-804.

APPEALS —Cont'd**Freedom of information act.**

Enforcement of provisions, §25-19-107.

APPROPRIATIONS.**Auditor of state.**

Unexpended balances not carried forward, §25-16-515.

Warrants for payment of money.

No warrant drawn without appropriation, §25-16-517.

Human services department.

Developmental disabilities.

Disposition of funds received by division of developmental disabilities services, §25-10-114.

Direct services funds.

Disposition, §25-10-113.

Interlocal cooperation, §25-20-107.**ARCHEOLOGICAL SURVEY.****Freedom of information.**

Site files and records.

Records deemed not public records, §25-19-105.

Records.

Freedom of information.

Site files and records.

Records deemed not public records, §25-19-105.

ARKANSAS AMBASSADOR'S

CERTIFICATES, §25-16-405.

ARKANSAS DEAF AND HEARING IMPAIRED

TELECOMMUNICATIONS SERVICES CORPORATION, §§25-29-101 to 25-29-112.

ARKANSAS ELECTRONIC

RECORDS AND SIGNATURES ACT, §§25-31-101 to 25-31-105.

ARKANSAS HERITAGE**DEPARTMENT.**

Arkansas natural and cultural heritage advisory committee.

Generally, §25-3-104.

Budgets.

Transfers into department.

Effect on budget, §25-3-103.

Construction and interpretation.

Liberal construction, §25-3-101.

Director of department.

Appointment, §25-3-102.

Duties, §25-3-102.

Established, §25-3-102.**Fees.**

Publications, seminars, etc., §25-3-105.

Funds.

Publication development and resale revolving fund, §25-3-106.

ARKANSAS HERITAGE**DEPARTMENT —Cont'd****Heritage foundation.**

Promotion and cooperation in establishment, §25-3-108.

Uses of private funds, §25-3-108.

Legislative intent, §25-3-101.**Natural and cultural heritage advisory committee.**

Generally, §25-3-104.

Organization of department, §25-3-102.**Personnel of department, §25-3-102.****Printing.**

Restriction on printing expenditures, §25-3-107.

Publication.

Fees for publications, seminars, etc., §25-3-105.

Funds.

Publication, development and resale revolving fund, §25-3-106.

Sales of publications.

Disposition of proceeds into publication, development and resale development fund, §25-3-106.

Reports.

Heritage foundation.

Amount and source of gifts, grants and donations, §25-3-108.

Transfers into department, §25-3-103.**ARKANSAS HERITAGE****FOUNDATION.****Reports.**

Amount and source of gifts, grants and donations, §25-3-108.

ARKANSAS REGISTER, §25-15-205.**ARKANSAS REHABILITATION**

SERVICES, §§25-30-201 to 25-30-205.

ARKANSAS TECH UNIVERSITY.**Board of trustees.**

Honorary boards of management.

General provisions, §§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

ARREST.**State institutions.**

Security officers.

Powers, §25-17-305.

ASSESSMENT COORDINATION

DEPARTMENT, §§25-28-101 to 25-28-107.

ASSESSMENTS.

Assessment coordination department, §§25-28-101 to 25-28-107.

Deaf and hearing impaired telecommunications services corporation.

Assessment on local exchange service providers, §25-29-103.

ATHLETIC COMMISSION.

Subpoena powers, §25-15-104.

ATTORNEY GENERAL.**Actions.**

Defaulting officers.
Suits against officers indebted to state, §25-16-709.
Assistant attorneys.
Employment, §25-16-709.
Failure to bring suit.
Employment of attorney by governor, §25-16-709.

Attorneys at law.

Employment of outside counsel, §25-16-702.
Funding restriction, §25-16-712.
Special counsel.

Disputes between attorney general and constitutional officer, §25-16-711.

Blind persons.

Division of state services for the blind.
Legal counsel, §25-10-206.

Compromise and settlement.

Money due state.
Collection, §25-16-708.

Constitutional officers.

Disputes between attorney general and constitutional officer.
Special counsel to resolve dispute.
Employment by constitutional officer authorized, §25-16-711.

Disputes between attorney general and constitutional officer.

Special counsel to resolve dispute may be employed by officer, §25-16-711.

Duties.

Supreme court.
Attendance, §25-16-704.

Employment of outside counsel, §25-16-702.**Federal courts.**

Representation of state interests in federal courts, §25-16-703.

Federal encroachment on state rights.

Deputy or assistant.
Appointment, §25-21-104.
Duties, §§25-21-101 to 25-21-103.

ATTORNEY GENERAL —Cont'd
Federal encroachment on state rights —Cont'd

Investigations on request of senators or representatives, §25-21-103.
Membership in interstate organization. Authorized, §25-21-105.
Study of proposed federal legislation, §25-21-102.

Finance.

Employment of outside legal counsel.
Restrictions, §25-16-712.

Forms.

Subpoenas, §25-16-705.

Freedom of information.

Unpublished memoranda, working papers, etc.
Records deemed not public records, §25-19-105.

General assembly.

Opinions of attorney general.
Giving to general assembly, §25-16-706.

Governor.

Opinions of attorney general.
Giving to governor, §25-16-706.

Misdemeanors.

Subpoenas.
Failure of officer to serve or failure of witness to appear, §25-16-705.

Model rules of administrative procedure, §25-15-215.**Money due state.**

Amounts to be certified to attorney general, §25-16-707.
Certification of amounts due, §25-16-707.
Penalty for violation, §25-16-707.
Collection.

Compromise and settlement, §25-16-708.

Conflict of laws.

Repeal of conflicting laws, §25-16-708.

Disposition of moneys collected, §25-16-708.

Special counsel.

Appointed, §25-16-708.

Compensation, §25-16-708.

Venue of suits, §25-16-708.

Penalties.

Certification of amounts due to state.
Violation of provisions, §25-16-707.

Oaths.

Administration of oaths, §25-16-705.

Opinions of attorney general.

General assembly.
Giving to general assembly, §25-16-706.

ATTORNEY GENERAL —Cont'd**Opinions of attorney general**

—Cont'd

Giving to governor, §25-16-706.

Prosecuting attorneys.

Giving to prosecuting attorneys,
§25-16-706.

Real property bought by state.

Examination of abstract, §25-16-706.

Penalties.

Money due state.

Certification of amount to attorney
general, §25-16-707.

Subpoenas.

Failure of officer to serve or failure of
witness to appear, §25-16-705.**Practice of law.**Private practice prohibited,
§25-16-701.**Prosecuting attorneys.**

Opinions of attorney general.

Giving opinion to prosecutor,
§25-16-706.**Quo warranto.**

Power to issue writ, §25-16-704.

Records.

Freedom of information.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**Representation of state interests in
federal courts, §25-16-703.****Salary, §25-16-101.****Service of process.**Subpoenas of attorney general,
§25-16-705.**Special counsel.**Disputes between attorney general and
constitutional officer.Employment of special counsel,
§25-16-711.

Money due state.

Collection, §25-16-708.

Suits against officers indebted to state.

Employment of assistant attorneys,
§25-16-709.**State departments and agencies.**Representation of state agencies and
officers, §25-16-702.Employment of outside counsel,
§25-16-702.**State of Arkansas.**

Real property bought by state.

Examination of abstract, §25-16-706.

Representation of state interests in
federal courts, §25-16-703.**ATTORNEY GENERAL —Cont'd****Subpoenas.**

Failure of witness to appear.

Citation, §25-16-705.

Penalty, §25-16-705.

Form, §25-16-705.

Power of attorney general, §25-16-705.

Service, §25-16-705.

Failure of officer to serve.

Penalty, §25-16-705.

Supreme court.

Attendance, §25-16-704.

Failure to attend.

Substitute appointed by court,
§25-16-704.**Venue.**

Money due state.

Collection.

Suits for funds due state,
§25-16-708.**Witnesses.**

Oaths.

Administration of oaths, §25-16-705.

Subpoenas, §25-16-705.

ATTORNEYS AT LAW.**Administrative procedure.**

Adjudication.

Hearings.

Right to counsel, §25-15-213.

Stay of proceedings where party or
attorney is member or employee of
general assembly, §25-15-103.**Attorney general.**Employment of outside counsel,
§25-16-702.

Funding restrictions, §25-16-712.

Special counsel.

Disputes between attorney general
and constitutional officer,
§25-16-711.**Practice of law.**

Attorney general.

Private practice prohibited,
§25-16-701.**AUCTIONS AND AUCTIONEERS.****Licenses.**

Board.

Subpoena powers, §25-15-104.

AUDITOR OF STATE.**Accounts and accounting.**

Certification of payments, §25-16-509.

Duties of auditors, §25-16-505.

Examination of books.

Joint legislative committee,
§25-16-512.

Ex officio state accountant, §25-16-510.

AUDITOR OF STATE —Cont'd**Accounts and accounting —Cont'd**

Joint legislative committee to examine books, §25-16-512.

Preservation of account, §25-16-511.

Appropriations.

Unexpended balances not carried forward, §25-16-515.

Warrants for payment of money.

No warrant drawn without appropriation, §25-16-517.

Blanks for officer's commissions and teachers' licenses.

Furnishing, §25-16-508.

Possession by officer other than state auditor, §25-16-508.

Penalty, §25-16-508.

Bonds, surety.

Amount, §25-16-502.

Approval by governor, §25-16-502.

Failure to give bond.

Vacancy in office, §25-16-502.

Filing with secretary of state, §25-16-502.

Warrants for payment of money.

Duplicate warrants, §25-16-519.

Review of bonding procedure, §25-16-519.

Checks.

Register of bank fund checks, §25-16-511.

Deputy.

Appointment, §25-16-504.

Powers, §25-16-504.

Duties, §§25-16-505, 25-16-510.

Letter book.

Keeping, §25-16-511.

Willful neglect or refusal to perform duty.

Penalty, §25-16-501.

Ex officio state accountant,

§25-16-510.

Extortion.

Penalty, §25-16-501.

Forms.

Warrants for payment of money, §25-16-516.

General assembly.

Joint committee to examine books, §25-16-512.

Report, §25-16-512.

Action on approving report, §25-16-512.

Unfavorable report.

Action on, §25-16-512.

Governor.

Reports to governor, §25-16-203.

AUDITOR OF STATE —Cont'd**Inspections.**

Access to other offices, §25-16-506.

Letter book.

Duty to keep, §25-16-511.

Misdemeanors.

Violation of law by auditor, §25-16-501.

Warrants for payment of money.

Illegally issuing, §25-16-517.

Oaths.

Oath of office, §25-16-504.

Power to administer, §25-16-507.

Payments by auditor.

Certification of payments, §25-16-509.

Penalties.

Blanks for officer's commissions and teachers' licenses.

Possession by officer other than state auditor, §25-16-508.

Violation of law by auditor, §25-16-501.

Warrants for payment of money.

Illegally issuing, §25-16-517.

Records.

Register of bank fund checks, §25-16-511.

Register of bank fund checks,

§25-16-511.

Director of administration.

Transmission of documents and information to auditor, §25-16-511.

Form, §25-16-511.

Reports.

Biennial report of auditor, §25-16-513.

General assembly.

Joint committee to examine books, §25-16-512.

Quarterly reports to governor.

Treasurer's accounts, §25-16-514.

Warrants for payment of money.

Report to treasurer of amount of warrants drawn, §25-16-515.

Responsibility for acts, §25-16-504.**Salary, §25-16-101.****Seal of office, §25-16-503.****Teachers.**

Blanks for teachers' licenses, §25-16-508.

Treasurer of state.

Warrants for payment of money.

Payment of state auditor's warrants, §§25-16-607 to 25-16-609.

See TREASURER OF STATE.

Treasurer's receipts.

Destruction after five years, §25-16-511.

Vacancy in office.

Failure to give bond, §25-16-502.

AUDITOR OF STATE —Cont'd

Vouchers.

Destruction after five years,
§25-16-511.

Preservation, §25-16-511.

Warrants for payment of money.

Appropriations.

No warrant drawn without
appropriation, §25-16-517.

Bonds, surety, §25-16-519.

Review of bonding procedure,
§25-16-519.

Drawing, §25-16-516.

Duplicate warrants.

Issuance, §25-16-519.

Review of bonding procedure,
§25-16-519.

Form, §25-16-516.

Illegal issuance.

Penalty, §25-16-517.

Interest.

Not to bear interest, §25-16-518.

Loss or destruction of warrants.

Duplicate warrants.

Issuance, §25-16-519.

Numbering warrants progressively,
§25-16-516.

Offset.

Use as offset prohibited, §25-16-518.

Payment of state auditor's warrants.

Treasurer of state, §§25-16-607 to
25-16-609.

See TREASURER OF STATE.

Register of warrants, §25-16-516.

Report to treasurer of amount of
warrants drawn, §25-16-515.

School purposes.

No warrant drawn on general
revenues for, §25-16-517.

State debt.

Warrants not received in payment of,
§25-16-518.

Treasurer of state.

Payment of state auditor's warrants,
§§25-16-607 to 25-16-609.

See TREASURER OF STATE.

AUDITS AND AUDITORS.

**Deaf and hearing impaired
telecommunications services
corporation.**

Annual audit, §25-29-107.

Governor.

Transition funds, §25-16-205.

Interlocal cooperation.

Waterworks.

Report of activities, §25-20-321.

B

BLIND PERSONS.

Attorney general.

Division of state services for the blind.

Legal counsel, §25-10-206.

Definitions.

Division of state services for the blind,
§25-10-202.

Human services department.

Division of state services for the blind.

Assistance to other agencies,
§25-10-204.

Attorney general.

Legal counsel, §25-10-206.

Board, §25-10-205.

Creation, §25-10-201.

Definitions, §25-10-202.

Designated state agency, §25-10-204.

Exemptions from act, §25-10-203.

Fund established, §25-10-207.

Legal counsel, §25-10-206.

Powers and duties of division,
§25-10-204.

Public policy, §25-10-201.

Supplemental insurance, §25-10-208.

Transfer of office for the blind and
visually impaired, §25-10-204.

Information technology access,

§§25-26-201 to 25-26-206.

Actions, §25-26-206.

Assurance of nonvisual access,
§25-26-203.

Definitions, §25-26-202.

Development and implementation,
§25-26-205.

Findings, §25-26-201.

Implementation, §25-26-205.

Injunctions, §25-26-206.

Nonvisual access, §25-26-203.

Policy, §25-26-201.

Procurement requirements,
§25-26-204.

School for the blind.

Board of trustees.

Honorary boards of management
generally, §§25-17-201 to
25-17-211.

See STATE INSTITUTIONS.

BOARDS AND COMMISSIONS.

Administration of funds, §25-1-107.

Administrative procedure.

General provisions, §§25-15-101 to
25-15-214.

See ADMINISTRATIVE
PROCEDURE.

BOARDS AND COMMISSIONS

—Cont'd

Appeals.

Removal of members.

Review of removal orders.

Appeal from circuit court decisions,
§25-16-804.**Appointment of members.**

Senate.

Confirmation of governor's
appointments by senate,
§25-2-109.**Blind persons.**

Human services department.

Division of state services for the
blind, §25-10-205.**Compensation.**

Copies of subchapter.

Distribution, §25-16-908.

Effective date, §25-16-907.

Expense reimbursement, §25-16-902.

Limitations, §25-16-901.

Members of general assembly,
§25-16-906.

Stipend.

Authorization for \$100, §25-16-905.

Authorization for \$60, §25-16-903.

Authorization for \$75, §25-16-904.

Salaried members, §25-16-906.

State employees, §25-16-906.

Evaluation of necessity, §25-1-106.**Expenses.**

Reimbursement, §25-16-902.

Fund administration duties,
§25-1-107.**General assembly.**

Appointment of members.

Senatorial confirmation of members,
§25-2-109.Members of certain boards not to be
members of assembly, §25-1-302.Paper reduction, §§25-1-201 to
25-1-206.

See PAPER REDUCTION.

Governor.

Removal of members.

General provisions, §25-16-804. See
within this heading, "Removal of
members."**Hearings.**

Removal of members.

Review of removal orders.

Circuit court hearing, §25-16-804.

Honorary boards of management.State institutions, §§25-17-201 to
25-17-211.

See STATE INSTITUTIONS.

BOARDS AND COMMISSIONS

—Cont'd

Information network of Arkansas,
§25-27-103.**Martin Luther King, Jr. commission,**
§§25-24-101 to 25-24-103.**Members of boards and
commissions.**

Appointment.

Congressional district appointments,
§25-16-801.Congressional district appointments,
§25-16-801.

House of Representatives, §25-1-301.

Removal and replacement.

Generally, §25-16-804.

Good cause, §25-16-804.

Procedure, §25-16-804.

Special board member appointments,
§25-16-805.

Senate, §25-1-301.

Terms.

Expiration.

No expiration between biennial
general election and governor's
swearing in, §25-16-803.**Mental health.**Office of minority mental health,
§§25-10-122 to 25-10-133.See HUMAN SERVICES
DEPARTMENT.**Mission statements.**

Filing, §25-1-105.

Office of minority mental health,
§§25-10-122 to 25-10-133.See HUMAN SERVICES
DEPARTMENT.**Open public meetings, §25-19-106.****Orders.**

Distribution, §25-18-224.

Paper reduction, §§25-1-201 to
25-1-206.

See PAPER REDUCTION.

Publication of opinions and orders,
§25-18-224.**Removal of members.**

Good cause.

Defined, §25-16-804.

Removal by governor for, §25-16-804.
Senate.Confirmation by senate,
§25-16-804.

Hearings.

Review of removal orders.

Circuit court hearing, §25-16-804.

Orders of removal.

Delivery to member removed,
§25-16-804.

BOARDS AND COMMISSIONS

—Cont'd

Removal of members —Cont'd

Orders of removal —Cont'd

Review, §25-16-804.

Written orders required, §25-16-804.

Reinstatement.

Court order, §25-16-804.

Effect on board or commission action,
§25-16-804.

Replacement, §25-16-804.

Special board members, §25-16-805.

Review of removal orders.

Appeal from circuit court decisions,
§25-16-804.Hearing before circuit court,
§25-16-804.

Petition, §25-16-804.

Special member appointments,
§25-16-805.**Senatorial confirmation of members,**
§25-2-109.**Special board members.**

Appointments, §25-16-805.

State institutions.Honorary boards of management,
§§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

Summary of activities.

Filing, §25-1-105.

Terms of office.

Expiration.

Not to expire between biennial
general election and governor's
swearing in, §25-16-803.**BOND ISSUES.****Interlocal cooperation.**

Waterworks.

Bond issues for improvements,
§§25-20-310 to 25-20-314.**BONDS, SURETY.****Secretary of state,** §25-16-401.**BUDGETS.****Arkansas heritage department.**

Transfers into department.

Effect on budget, §25-3-103.

Human services department.

Director.

Duties as to budgeting, §25-10-111.

Paper reduction, §25-1-204.**BURDEN OF PROOF.****Administrative procedure.**

Adjudication, §25-15-213.

C**CAREER OPPORTUNITIES.****Workforce education generally,**
§§25-30-101 to 25-30-109.

See WORKFORCE EDUCATION.

CHARITIES.**Repairs.**

Damages to charitable institution.

Board of trustees.

Authorized to borrow money,
§25-17-103.**CHECKS.****Auditor of state.**Register of bank fund checks,
§25-16-511.**CHILD SUPPORT.****Finance and administration
department.**

Revenue division.

Reports relating to child support
enforcement program,
§25-10-118.**CIGARETTES AND TOBACCO
PRODUCTS.****State departments and agencies.**

Smoking.

Development of smoking policy,
§25-1-102.**CIRCUIT COURTS.****Freedom of information act.**

Enforcement of provisions.

Duties of circuit courts, §25-19-107.

CLAIMS AGAINST THE STATE.**Warrants for payment of money.**

Uncollectible state warrants or checks.

Claims for reimbursement,
§25-16-609.

Payment of claim, §25-16-609.

Referral to general assembly,
§25-16-609.**CLERKS OF COURT.****Supreme court reports.**

Circuit court clerks.

Annual check of offices of clerk,
§25-18-213.

Duties of clerks, §25-18-212.

Missing books.

Replacement by clerk, §25-18-214.

COMMERCE.**Freedom of information.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**COMMISSIONERS IN OTHER
STATES.****Appointment,** §25-16-204.**Governor.**

Power to appoint, §25-16-204.

COMMISSIONERS IN OTHER STATES —Cont'd

Oaths.

- Oath of office, §25-16-204.
- Power to administer oaths, §25-16-204.
- Validity of oaths administered by, §25-16-204.

Powers, §25-16-204.

Validity of acts, §25-16-204.

COMPROMISE AND SETTLEMENT.

Attorney general.

- Money due state.
- Collection, §25-16-708.

Public records.

- Litigation settlement agreements, §§25-18-401 to 25-18-403.
- Disclosure requirements, §25-18-401.
- Inapplicability of subchapter, §25-18-402.
- Violations as misdemeanors, §25-18-403.

COMPUTERS.

Information systems, §§25-4-101 to 25-4-124.

See INFORMATION SYSTEMS.

Information technology access for the blind, §§25-26-201 to 25-26-206.

See BLIND PERSONS.

Recycling and electronic solid waste.

- Accounting and administration of sales, §25-34-105.
- Agency-wide policies, §25-34-104.
- Definitions, §25-34-103.
- Donation of unsold surplus equipment, §25-34-107.
- Electronic equipment recycling grants, §25-34-110.
- Fund, §§25-34-109, 25-34-110.
- Grants, §25-34-110.
- Landfill ban, §25-34-111.
- Legislative findings, §25-34-102.
- Policies for disposal, §25-34-104.
- Sale of surplus equipment.
 - Accounting and administration of sales, §25-34-105.
 - Pricing, §25-34-106.
 - Proceeds, §25-34-108.
 - Unsold equipment, §25-34-107.
- Title of provisions, §25-34-101.
- Unsold surplus equipment, §25-34-107.

CONFLICT OF LAWS.

Deaf and hearing impaired telecommunications services corporation, §25-29-112.

CONTEMPT.

Administrative procedure.

- Adjudication.
- Failure to respond to subpoena or take oath or respond as witness, §25-15-213.

Freedom of information act.

- Noncompliance with orders of court, §25-19-107.

CONTRACTS.

Discrimination.

- Public contracts.
- Antidiscrimination clause required, §25-17-101.

Electronic transactions.

- Legal recognition of electronic contracts, §25-32-107.

Human resources commission.

- Antidiscrimination clause required, §25-17-101.

Information systems.

- Generally, §25-4-114.

Interlocal cooperation.

- Services from another agency, §25-20-108.

Workforce education.

- Authority to enter into, §25-30-108.

COPIES.

Public records.

- Facsimile copies.
- Fee for facsimile copy, §25-18-103.
- Reproduction of records generally, §25-18-101.

Secretary of state.

- Fees.
 - Facsimile copies of state records, §25-18-103.
- Official papers, §25-16-403.
- Records.
 - Facsimile copies of state records.
 - Fee, §25-18-103.

CORPORATIONS.

Deaf and hearing impaired telecommunications services corporation, §§25-29-101 to 25-29-112.

CORRECTIONS.

Board of corrections.

- Honorary boards of management generally, §§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

Department of correction.

- Continued, §25-5-101.
- Divisions, §25-5-101.

COSMETOLOGY.**Board of cosmetology.**

Subpoena powers, §25-15-104.

COUNSELORS.**Board of examiners in counseling.**

Subpoena powers, §25-15-104.

COUNTIES.**Boards and commissions.**

Meetings.

Open public meetings, §25-19-106.

Cooperation.

Interlocal cooperation, §§25-20-101 to 25-20-108.

See INTERLOCAL COOPERATION.

Governing bodies.

Open public meetings, §25-19-106.

Human services department.

County offices of human services, §25-10-115.

Interlocal cooperation.

General provisions, §§25-20-101 to 25-20-108.

See INTERLOCAL COOPERATION.

Open public meetings.

Boards and commissions, §25-19-106.

Governing bodies, §25-19-106.

COURTS.**Freedom of information.**

Documents protected from disclosure by court order or rule.

Documents deemed not public records, §25-19-105.

CULTURE.**Arkansas heritage department.**

General provisions, §§25-3-101 to 25-3-108.

See ARKANSAS HERITAGE DEPARTMENT.

D**DAMAGES.****Electronic records and signatures,**
§25-31-105.**Interlocal cooperation.**

Liability for damages under agreements, §25-20-105.

DATA PROCESSING.**Information systems,** §§25-4-101 to 25-4-124.

See INFORMATION SYSTEMS.

**DEAF AND HEARING IMPAIRED
TELECOMMUNICATIONS
SERVICES CORPORATION,**
§§25-29-101 to 25-29-112.**DEAF PERSONS.****Administrative procedure.**

Interpreters for the deaf, §25-15-102.

**Arkansas deaf and hearing impaired
telecommunications services
corporation,** §§25-29-101 to 25-29-112.**Publication.**

State publications.

References to deaf persons, §25-18-222.

School for the deaf.

Board of trustees.

Honorary boards of management, §25-17-205.

Honorary boards of management, §25-17-205.

Telecommunications services.

Deaf and hearing impaired telecommunications services corporation, §§25-29-101 to 25-29-112.

DECLARATORY JUDGMENTS.**Administrative procedure.**

Rules and regulations.

Applicability of rule, §§25-15-206, 25-15-207.

DEFINED TERMS.**Access.**

Information technology access for the blind, §25-26-202.

Adjournment sine die.

Administrative procedures, §25-15-103.

Adjudication.

Administrative procedures, §25-15-202.

Agency.

Administrative procedures, §25-15-202.

Computer recycling and electronic solid waste, §25-34-103.

Agency CIO, §25-33-102.**Agreement.**

Electronic transactions, §25-32-102.

Any administrative proceeding.

Interpreters for the deaf, §25-15-102.

Application.

Information systems, §25-4-103.

Automated transaction.

Electronic transactions, §25-32-102.

Blind.

Department of human services.

Division of state services for the blind, §25-10-202.

**Blind or visually impaired
individual.**

Information technology access for the blind, §25-26-202.

DEFINED TERMS —Cont'd**Business.**

Public records, §25-18-101.

CIO council.

Agency chief information officers,
§25-33-102.

Computer.

Computer recycling and electronic
solid waste, §25-34-103.

Computer program.

Electronic transactions, §25-32-102.

Consolidated waterworks system,

§25-20-307.

Contract.

Electronic transactions, §25-32-102.

**Core information technology
infrastructure.**

Agency chief information officers,
§25-33-102.

Information systems, §25-4-103.

Covered entity.

Information technology access for the
blind, §25-26-202.

Custodian.

Freedom of information act,
§25-19-103.

Demanufacturing.

Computer recycling and electronic
solid waste, §25-34-103.

Disposal.

Computer recycling and electronic
solid waste, §25-34-103.

Electronic.

Electronic transactions, §25-32-102.

Electronic agent.

Electronic transactions, §25-32-102.

Electronic record.

Agency chief information officers,
§25-33-102.

Electronic transactions, §25-32-102.

Electronics.

Computer recycling and electronic
solid waste, §25-34-103.

Electronic signature.

Electronic records and signatures,
§25-31-103.

Electronic transactions, §25-32-102.

**Electronic signature verification
company.**

Electronic records and signatures,
§25-31-103.

Enterprise project.

Agency chief information officers,
§25-33-102.

Equipment.

Information systems, §25-4-103.

Executive CIO.

Agency chief information officers,
§25-33-102.

DEFINED TERMS —Cont'd**Executive head.**

University of Arkansas, §25-17-301.

Format.

Freedom of information act,
§25-19-103.

Gateway system.

Information network, §25-27-102.

General office space.

State agency smoking policies,
§25-1-102.

Governmental agency.

Electronic transactions, §25-32-102.

Information.

Electronic transactions, §25-32-102.

Information processing.

Information systems, §25-4-103.

Information processing system.

Electronic transactions, §25-32-102.

Information technology.

Agency chief information officers,
§25-33-102.

Information systems, §25-4-103.

Information technology access for the
blind, §25-26-202.

Information technology resources.

Agency chief information officers,
§25-33-102.

Information systems, §25-4-103.

Institution.

Property of state institutions,
§25-17-301.

License.

Administrative procedures, §25-15-202.

Licensing.

Administrative procedures, §25-15-202.

Medium.

Freedom of information act,
§25-19-103.

Network infrastructure.

Information systems, §25-4-103.

Network manager.

Information network, §25-27-102.

Nonvisual.

Information technology access for the
blind, §25-26-202.

Offender.

Administrative procedure, §25-15-211.

Oral interpreter.

Interpreters for the deaf, §25-15-102.

Order.

Administrative procedures, §25-15-202.

Other governmental entities.

Information systems, §25-4-103.

Paper reduction, §25-1-206.**Party.**

Administrative procedures, §25-15-202.

DEFINED TERMS —Cont'd**Person.**

Administrative procedures, §25-15-202.

Electronic records and signatures,
§25-31-103.

Electronic transactions, §25-32-102.

Project.

Agency chief information officers,
§25-33-102.

Information systems, §25-4-103.

Property.

State institutions, §25-17-301.

Property under the control of.

State institutions, §25-17-301.

Public agency.

Interlocal cooperation act, §25-20-103.

Public information.

Information network, §25-27-102.

Public instrumentality.

Information systems, §25-4-103.

Public meetings.

Freedom of information act,
§25-19-103.

Public records.

Freedom of information act,
§25-19-103.

Qualified interpreter.

Administrative procedures.

Interpreters for the deaf, §25-15-102.

Record.

Electronic records and signatures,
§25-31-103.

Electronic transactions, §25-32-102.

Recycle.

Computer recycling and electronic
solid waste, §25-34-103.

Reuse.

Computer recycling and electronic
solid waste, §25-34-103.

Rules.

Administrative procedures, §25-15-202.

Security procedure.

Electronic transactions, §25-32-102.

Smoking.

State agency smoking policies,
§25-1-102.

State.

Interlocal cooperation act, §25-20-103.

State agency.

Agency chief information officers,
§25-33-102.

Electronic transactions, §25-32-102.

Information systems, §25-4-103.

Smoking policies, §25-1-102.

State-assisted organization.

Information technology access for the
blind, §25-26-202.

DEFINED TERMS —Cont'd**State of Arkansas shared technical architecture.**

Information systems, §25-4-103.

Surplus computer equipment.

Computer recycling and electronic
solid waste, §25-34-103.

Telecommunications.

Information systems, §25-4-103.

Information technology access for the
blind, §25-26-202.

Transaction.

Electronic transactions, §25-32-102.

Transferable record.

Electronic transactions, §25-32-116.

Transition funds.

Governor, §25-16-205.

User association.

Information network, §25-27-102.

Visually handicapped.

Department of human services.

Division of state services for the
blind, §25-10-202.

DEPARTMENT OF WORKFORCE

EDUCATION, §§25-30-101 to
25-30-109.

DEPOSITS.**Department of finance and administration.**

Purchasing division.

Proceeds from transactions,
§25-8-106.

DISCRIMINATION.**Contracts.**

Public contracts.

Antidiscrimination clause required,
§25-17-101.

Martin Luther King, Jr. commission.

Duties, §25-24-102.

DIVISION OF REHABILITATION

SERVICES, §§25-30-201 to
25-30-205.

DOCTOR MARTIN LUTHER KING, JR.

Commission, §§25-24-101, 25-24-102.

DOMESTIC VIOLENCE.**Funds.**

Advisory bodies, fund administration
duties, §25-1-107.

State agency designated to administer,
§25-1-107.

E**ECONOMIC DEVELOPMENT.**

Commission, §25-11-102.

Creation, §25-11-102.

**ECONOMIC DEVELOPMENT
COMMISSION, §25-11-102.**

EDUCATION.

County boards of education.

Meetings.

Open public meetings, §25-19-106.

Open public meetings, §25-19-106.

Department of education.

Director, §25-6-102.

Organization, §25-6-102.

State board of education.

Authority and responsibility,
§25-6-101.

Meetings.

Open public meetings.

School districts and county boards of
education, §25-19-106.

Open public meetings.

County boards of education,
§25-19-106.

School districts, §25-19-106.

School districts.

Open public meetings, §25-19-106.

State board of education.

Department of education.

Composition of department,
§25-6-102.

Workforce education.

Coordination with board, §25-30-104.

Workforce education generally,

§§25-30-101 to 25-30-109.

See WORKFORCE EDUCATION.

ELECTIONS.

**State board of election
commissioners.**

Subpoena powers, §25-15-104.

**ELECTRONIC RECORDS AND
SIGNATURES, §§25-31-101 to
25-31-105.**

**Acceptance of, or agreement to,
§25-31-104.**

Construction, §25-31-102.

Definitions, §25-31-103.

**Electronic transactions generally,
§§25-32-101 to 25-32-120.**

Short title, §25-31-101.

Unauthorized use, §25-31-105.

**ELECTRONIC TRANSACTIONS,
§§25-32-101 to 25-32-120.**

Agreements.

Variation by agreement, §25-32-105.

**Applicability of provisions,
§§25-32-103, 25-32-105.**

Prospective applicability, §25-32-104.

Automated transactions, §25-32-114.

Citation of act, §25-32-101.

ELECTRONIC TRANSACTIONS

—Cont'd

**Construction of provisions,
§25-32-106.**

Contracts.

Legal recognition of electronic
contracts, §25-32-107.

Definitions, §25-32-102.

Transferable record, §25-32-116.

Evidence.

Admissibility of electronic records or
signatures, §25-32-113.

Governmental agencies.

Records.

Acceptance and distribution
electronic records, §25-32-118.

Interoperability, §25-32-119.

Creation and retention of electronic
records and conversion of written
records, §25-32-117.

**Legal recognition of electronic
records, signatures and
contracts, §25-32-107.**

Records.

Acknowledgment, §25-32-111.

Attribution and effect of electronic
record, §25-32-109.

Change or error in electronic record.
Effect, §25-32-110.

Evidence.

Admissibility of electronic records,
§25-32-113.

Governmental agencies.

Acceptance and distribution
electronic records, §25-32-118.

Interoperability, §25-32-119.

Creation and retention of electronic
records and conversion of written
records, §25-32-117.

Legal recognition of electronic records,
§25-32-107.

Notarization, §25-32-111.

Originals, §25-32-112.

Presentation of records, §25-32-108.

Receipt of electronic record.

Time and place of sending and
receipt, §25-32-115.

Retention of electronic records,
§25-32-112.

Sending electronic record.

Time and place of sending and
receipt, §25-32-115.

Transferable record, §25-32-116.

**Scope of provisions, §§25-32-103,
25-32-105.**

Prospective applicability, §25-32-104.

**Severability of provisions,
§25-32-120.**

ELECTRONIC TRANSACTIONS

—Cont'd

Signatures.

Acknowledgment, §25-32-111.

Attribution and effect of electronic signature, §25-32-109.

Evidence.

Admissibility of electronic signatures, §25-32-113.

Legal recognition of electronic signatures, §25-32-107.

Notarization, §25-32-111.

Title of act, §25-32-101.**Writing.**

Provision of information in writing, §25-32-108.

EMBALMERS AND FUNERAL DIRECTORS.**Board of embalmers and funeral directors.**

Subpoena powers, §25-15-104.

EMERGENCIES.**Administrative procedure.**

Rulemaking, §25-15-204.

Seat of government.

Emergency temporary location.

Applicability of provisions, §25-1-101.

Generally, §25-1-101.

Validation of acts performed at, §25-1-101.

EMINENT DOMAIN.**Interlocal cooperation.**

Waterworks, §25-20-309.

EVIDENCE.**Electronic transactions.**

Admissibility of electronic records or signatures, §25-32-113.

EXTORTION.**Auditor of state.**

Penalty, §25-16-501.

Treasurer of state.

Penalty, §25-16-601.

EXTRAORDINARY WRITS.**Quo warranto.**

Attorney general.

Power to issue, §25-16-704.

F**FEDERAL AID.****Executive department.**

Reorganization to meet federal program requirements, §25-16-201.

Finance and administration department.

Duties of department as to, §25-8-105.

FEDERAL AID —Cont'd**Governor.**

Reorganization of agencies to meet federal program requirements, §25-16-201.

FEDERAL ENCROACHMENT ON STATE RIGHTS.**Attorney general.**

Deputy or assistant.

Appointment, §25-21-104.

Duties, §§25-21-101 to 25-21-103.

Investigations on request of senators or representatives, §25-21-103.

Membership in interstate organization.

Authorized, §25-21-105.

Study of proposed federal legislation, §25-21-102.

Investigations.

Attorney general.

Request of senators or representatives, §25-21-103.

Title of law, §25-21-106.**FEES.****Arkansas heritage department.**

Publications, seminars, etc., §25-3-105.

Finance and administration department.

Redistributing property between state agencies.

Fee schedule, §25-8-106.

Freedom of information.

Attorneys' fees, §25-19-107.

Electronic information requests, §25-19-109.

Human services department.

Charges for institutional services, §25-10-110.

Interlocal cooperation.

Waterworks.

Franchise fee payments to agencies, §25-20-319.

Records.

Reproduction of public records.

Facsimile copy fee, §25-18-103.

FINANCE.**Department of finance and administration**, §§25-8-101 to 25-8-108.See **FINANCE AND ADMINISTRATION DEPARTMENT.****Finance and administration department**, §§25-8-101 to 25-8-108.See **FINANCE AND ADMINISTRATION DEPARTMENT.**

FINANCE —Cont'd**State departments and agencies.**

Department of finance and administration, §§25-8-101 to 25-8-108.

See FINANCE AND ADMINISTRATION DEPARTMENT.

FINANCE AND ADMINISTRATION DEPARTMENT.**Budget and accounting division.**

Director, §25-8-104.

Child support enforcement office,
§25-8-107.**Contract labor.**

Revenue division, §25-8-107.

Deposits.

Purchasing division.

Proceeds from transactions,
§25-8-106.

Director.

Appointment, §25-8-101.

Authority of director, §25-8-102.

Rules and regulations.

Adoption, §25-8-102.

Marketing and redistribution
section of purchasing division,
§25-8-106.

Divisions, §25-8-101.

Budget and accounting division,
§25-8-104.

Directors.

Budget and accounting division,
§25-8-104.

Purchasing division, §25-8-106.

Established, §25-8-101.**Federal aid.**

Duties of department as to, §25-8-105.

Fees.

Redistributing property between state agencies.

Fee schedule, §25-8-106.

Inadequate funds.

Loans to marketing and redistribution
section, §25-8-109.

Information and data.

State departments and agencies to
provide, §25-1-104.

Inventory of state equipment.

Purchasing division, §25-8-106.

Office of child support enforcement,
§25-8-107.**Office of personnel management.**

Creation, §25-8-103.

Personnel director.

Head of office, §25-8-103.

Organization of department,
§25-8-101.**FINANCE AND ADMINISTRATION DEPARTMENT —Cont'd****Personal property.**

Marketing and redistribution of state
personal property, §25-8-106.

Personnel, §25-8-101.**Purchasing division.**

Inventory of state equipment,
§25-8-106.

Marketing and redistribution section.

Applicability of provisions, §25-8-106.

Creation, §25-8-106.

Purpose of provisions, §25-8-106.

Records, §25-8-106.

Rules and regulations.

Promulgation by director of
department, §25-8-106.

Services to state agencies, §25-8-106.

Charges, §25-8-106.

Proceeds from transactions, §25-8-106.

Records.

Access to agency records, §25-1-104.

Reports.

Child support enforcement, §25-10-118.

Revenue division.

Child support enforcement.

Reports, §25-10-118.

Contract labor, §25-8-107.

Rules and regulations.

Authority of director, §25-8-102.

Marketing and redistribution section of
purchasing division, §25-8-106.

Support and maintenance.

Revenue division.

Child support enforcement program
reports, §25-10-118.

United States.

Federal aid programs.

Duties of department as to,
§25-8-105.

FINES.**Freedom of information.**

Negligent violations, §25-19-104.

Public officers and employees.

Failure to appear as witness,
§25-16-705.

Settlement agreement violations,
§25-18-403.**State institutions boards.**

Oath violations, §25-17-207.

FORMS.**Attorney general.**

Subpoenas, §25-16-705.

Auditor of state.

Warrants for payment of money,
§25-16-516.

FORMS —Cont'd**Subpoenas.**

Attorney general, §25-16-705.

Warrants for payment of money.

Auditor's warrant, §25-16-516.

FREEDOM OF INFORMATION.**Adoption.**

Records deemed not public records,
§25-19-105.

Agency information for public guidance, §25-19-108.**Appeals.**

Enforcement of provisions, §25-19-107.

Archeological survey.

Site files and records.

Records deemed not public records,
§25-19-105.

Attorney general.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Blind persons.

Information technology access for the
blind, §§25-26-201 to 25-26-206.

See BLIND PERSONS.

Circuit courts.

Enforcement of provisions.

Duties of circuit courts, §25-19-107.

Citation of act.

Short title, §25-19-101.

Contempt.

Noncompliance with orders of court,
§25-19-107.

Copying requests, §25-19-105.**Courts.**

Circuit courts.

Enforcement of provisions,
§25-19-107.

Documents protected from disclosure
by court order or rule.

Documents deemed not public
records, §25-19-105.

Definitions, §25-19-103.**Electronic information requests,
§25-19-109.****Enforcement of provisions,
§25-19-107.****Fees.**

Attorneys' fees, §25-19-107.

Electronic information requests,
§25-19-109.

General assembly.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

FREEDOM OF INFORMATION

—Cont'd

Governor.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Grand jury.

Minutes of proceedings.

Minutes deemed not public records,
§25-19-105.

Historical preservation program.

Site files and records.

Records deemed not public records,
§25-19-105.

Income tax.

State income tax records.

Records deemed not public records,
§25-19-105.

Judges.

Opinions and decisions.

Unpublished drafts of opinions and
decisions.

Deemed not public records,
§25-19-105.

Law enforcement officers.

Investigations.

Undisclosed investigations of
suspected criminal activity.

Records deemed not public records,
§25-19-105.

Legislative declaration, §25-19-102.**Medical records.**

Records deemed not public records,
§25-19-105.

Meetings.

Public meetings.

Defined, §25-19-103.

Executive sessions.

Restrictions on, §25-19-106.

Open meetings, §25-19-106.

Misdemeanors.

Violations of provisions, §25-19-104.

**Notice of request for records,
§25-19-105.****Penalties.**

Violations of provisions, §25-19-104.

Policy of state.

Declaration, §25-19-102.

**Public guidance, information for,
§25-19-108.****Public officers and employees.**

Personnel records disclosure.

Invasion of personal privacy.

Availability of records to employee
or designated representative,
§25-19-105.

FREEDOM OF INFORMATION

—Cont'd

Public officers and employees

—Cont'd

Personnel records disclosure —Cont'd

Invasion of personal privacy —Cont'd

Records deemed not public records,
§25-19-105.**Records.**

Public records.

Defined, §25-19-103.

Examination and copying,
§25-19-105.**Requests for copies of records,**

§25-19-105.

Supreme court.

Justices.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**Title of act.**

Short title, §25-19-101.

Trade and commerce.Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**Trade secrets.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**Unfair competition and trade
practices.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**Universities and colleges.**

Scholastic records.

Records deemed not public records,
§25-19-105.**Violations of provisions.**

Penalties, §25-19-104.

FUNDS.**Arkansas heritage department.**Publication, development and resale
revolving fund, §25-3-106.**Governor.**

Transition funds, §25-16-205.

Information systems.Department of information systems
revolving fund, §25-4-121.Information technology reserve fund,
§25-4-123.**G****GENERAL ASSEMBLY.****Acts of general assembly.**

Certification, §25-18-205.

Distribution, §25-18-206.

Index, §25-18-205.

Printing, §25-18-205.

Administrative procedure.Stay of proceedings in which party or
attorney is member or employee of
general assembly, §25-15-103.**Attorney general.**

Opinions of attorney general.

Giving to general assembly,
§25-16-706.**Auditor of state.**Joint committee to examine books,
§25-16-512.

Report, §25-16-512.

Action on approving report,
§25-16-512.

Unfavorable report.

Action on, §25-16-512.

Boards and commissions.Paper reduction, §§25-1-201 to
25-1-206.

See PAPER REDUCTION.

Senate.

Appointment of members.

Confirmation of governor's
appointment by senate,
§25-2-109.**Executive department.**Reorganization to meet federal
program requirements.Approval by general assembly,
§25-16-201.**Freedom of information.**Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**House of representatives.**

Boards and commissions.

Eligibility for membership,
§25-1-301.**Judges.**

Acts of general assembly.

Distribution to judges.

Free distribution, §25-18-206.

Municipal judges, §§25-18-206,
25-18-207.**Justices of the peace.**

Acts of general assembly.

Distribution to justices of the peace,
§25-18-206.

GENERAL ASSEMBLY —Cont'd

Paper reduction, §§25-1-201 to 25-1-206.

See PAPER REDUCTION.

Publication.

Acts of legislature.

Certificate of correctness, §25-18-205.

Compensation for copying and indexing acts, §25-18-205.

Delivery by officers to successors, §25-18-207.

Distribution.

Counties, §25-18-206.

Free distribution to certain officers, §25-18-206.

Justices of the peace, §25-18-206.

Library of congress, §25-18-220.

Municipal judges, §§25-18-206, 25-18-207.

Exchange of books with other states and countries, §25-18-220.

Index to acts, §25-18-205.

Lost or destroyed books.

Replacement, §25-18-208.

Penalties.

Failure to deliver books to successors, §25-18-207.

Municipal judges, §25-18-207.

Printing, §25-18-205.

Sale price, §25-18-209.

Digest.

Mansfield's digest.

Sale price, §25-18-209.

Journal of proceedings of legislature.

Time for publication and distribution, §25-18-204.

Law Library Association, Inc., Shelby County, Tennessee.

Distribution of proceedings of legislature to, §25-18-221.

Messages, reports and other documents ordered to be printed by legislature.

Covers, §25-18-203.

Number of copies, §25-18-202.

Title pages, §25-18-203.

Records.

Freedom of information.

Unpublished memoranda, working papers, etc.

Records deemed not public records, §25-19-105.

Secretary of state.

Acts of general assembly.

Exchange of books with federal, state and foreign entities, §25-18-220.

Records.

Custodian of records of general assembly, §25-16-403.

GENERAL ASSEMBLY —Cont'd Senate.

Boards and commissions.

Appointment of members.

Eligibility for membership, §25-1-301.

Senatorial confirmation of members, §25-2-109.

Lieutenant governor.

Custodian of senate chamber and records, §25-16-301.

Treasurer of state.

Joint committee to examine books, §25-16-615.

Report, §25-16-615.

Approval.

Action on approving report, §25-16-615.

Unfavorable report.

Action on, §25-16-615.

GOVERNOR.**Attorney general.**

Opinions of attorney general.

Giving to governor, §25-16-706.

Auditor of state.

Reports to governor, §25-16-203.

Audits and auditors.

Transition funds, §25-16-205.

Boards and commissions.

Removal of members.

General provisions, §25-16-804.

Special board member appointments, §25-16-805.

Commissioners in other states.

Power to appoint, §25-16-204.

Definitions.

Transition fund, §25-16-205.

Federal aid.

Reorganization of agencies to meet federal program requirements, §25-16-201.

Freedom of information.

Unpublished memoranda, working papers, etc.

Records deemed not public records, §25-19-105.

Funds.

Transition fund, §25-16-205.

General assembly.

Messages to general assembly.

Printing and distribution of copies, §25-18-204.

Message to general assembly.

Reports of state auditor and state treasurer.

Inclusion in message to general assembly, §25-16-203.

GOVERNOR —Cont'd**Records.**

- Freedom of information.
- Unpublished memoranda, working papers, etc.
- Records deemed not public records, §25-19-105.

Reports.

- State auditor to report to governor, §25-16-203.
- State treasurer.
- Report to governor, §25-16-203.

Salary, §25-16-101.

- Transition funds.
- Not to be used to pay salary, §25-16-205.

Seat of government.

- Emergency temporary location.
- Declaration by proclamation, §25-1-101.

State departments and agencies.

- Reorganization of agencies to meet federal program requirements, §25-16-201.

State treasurer.

- Reports to governor, §25-16-203.

Transition funds.

- Applicability of act, §25-16-205.
- Audit, §25-16-205.
- Defined, §25-16-205.
- Expenditures.
- Direct expenses of governor-elect.
- Expenditures limited to, §25-16-205.
- Guidelines on expenditure, §25-16-205.
- Limited to direct expenses of governor-elect, §25-16-205.
- Not to be used to pay salary, §25-16-205.
- Guidelines on expenditures, §25-16-205.
- Not to be used to pay salary, §25-16-205.
- Salary.
- Funds not to be used to pay salary, §25-16-205.

GRAND JURY.**Freedom of information.**

- Minutes of proceedings.
- Minutes deemed not public records, §25-19-105.

Minutes of proceedings.

- Freedom of information.
- Minutes deemed not public records, §25-19-105.

GRANTS.**State departments and agencies.**

- Reports to legislative council, §25-1-108.

H**HEALING ARTS.****Licensing boards.**

- Exemption from provisions, §25-2-102.

HEALTH.**Department of health.**

- Alcohol and drug abuse.
- Prevention division, §25-9-102.
- Community alcohol safety program, §25-9-106.
- County health unit administrator.
- Compensation, §25-9-105.
- Creation, §25-9-101.
- Divisions, §25-9-101.
- Alcohol and drug abuse, §25-9-102.
- Extra salaries.
- Payment to medical doctors, §25-9-104.
- Home health on-call and visit pay, §25-9-106.
- Office of oral health, §25-9-101.
- Patient care providers.
- Payment of wages and other benefits to, §25-9-103.
- Transfers to department, §25-9-101.
- Director of department of health,** §25-9-101.

HEARINGS.**Administrative procedure.**

- Adjudication, §§25-15-208, 25-15-213.
- Rules and regulations.
- Adoption of rules, §25-15-204.

Boards and commissions.

- Removal of members.
- Review of removal orders.
- Circuit court hearing, §25-16-804.

HEATING, VENTILATION, AIR CONDITIONING AND REFRIGERATION WORKERS.**Board.**

- Subpoena powers, §25-15-104.

HENDERSON STATE UNIVERSITY.**Board of trustees.**

- Honorary boards of management, §§25-17-201 to 25-17-211.
- See STATE INSTITUTIONS.

HERITAGE FOUNDATION.**Department of Arkansas heritage.**

- Promotion and cooperation in establishment of foundation, §25-3-108.

HERITAGE OF ARKANSAS.

Department of Arkansas heritage,
 §§25-3-101 to 25-3-108.
 See ARKANSAS HERITAGE
 DEPARTMENT.

HIGHWAYS.

**State highway and transportation
 department.**
 Community alcohol safety program,
 §25-9-106.

**HISTORICAL PRESERVATION
 PROGRAM.**

Freedom of information.
 Site files and records.
 Records deemed not public records,
 §25-19-105.

Records.

Freedom of information.
 Site files and records.
 Records deemed not public records,
 §25-19-105.

HUMAN SERVICES DEPARTMENT.

Administrative services division,
 §25-10-102.

Admission policies.

Development, §25-10-109.

Advisory committees.

Director may establish, §25-10-116.

Aging and adult services.

Division of, §25-10-102.

Alcohol and drug abuse prevention.

Division of.
 Transfer, §25-9-102.

Appropriations.

Developmental disabilities.
 Disposition of funds received by
 division of developmental
 disabilities services, §25-10-114.
 Direct services funds.
 Disposition, §25-10-113.

Blind persons.

Division of state services for the blind,
 §25-10-102.
 Assistance to other agencies,
 §25-10-204.
 Attorney general.
 Legal counsel, §25-10-206.
 Board of the division of state services
 for the blind.
 Generally, §25-10-205.
 Definitions, §25-10-202.
 Designated state agency, §25-10-204.
 Establishment, §25-10-201.
 Exemptions, §25-10-203.
 Fund established, §25-10-207.
 Powers and duties of division,
 §25-10-204.

**HUMAN SERVICES DEPARTMENT
 —Cont'd****Blind persons —Cont'd**

Division of state services for the blind
 —Cont'd
 Public policy, §25-10-201.
 Supplemental insurance, §25-10-208.
 Transfer of office for the blind and
 visually impaired, §25-10-204.

Budgets.

Director.
 Duties as to budgeting, §25-10-111.

Certification of state vouchers.

Designated disbursing officers,
 §25-10-119.

Children and family services.

Division of, §25-10-102.

Committees.

Advisory committees.
 Director may establish, §25-10-116.

Community action programs.

Grants-in-aid, §25-10-126.

**Community-based residential
 programs, §§25-10-134, 25-10-135.****Coordination of programs,
 procedures, etc., of department
 and institutional boards,
 §25-10-108.****Counties.**

County offices of human services,
 §25-10-115.

County operations.

Division of, §25-10-102.
 Local and donated funds.
 Obtaining federal matching funds,
 §25-10-132.

Creation, §25-10-101.**Developmental disabilities.**

Admission policies.
 Development by department,
 §25-10-109.
 Board of developmental disabilities
 services.
 Operation within department of
 human services, §25-10-104.
 Charges for institutional services,
 §25-10-110.
 Division of rehabilitative services,
 §25-10-102.
 Disposition of funds received by
 division, §25-10-114.

Director.

Advisory committees.
 Establishment by director
 authorized, §25-10-116.
 Budget coordination, §25-10-111.
 Coordination of programs, procedures,
 etc., of department and
 institutional boards, §25-10-108.

HUMAN SERVICES DEPARTMENT

—Cont'd

Director —Cont'd

County offices of human services.

Establishment by director,
§25-10-115.

Division heads and other personnel.

Appointment by director, §25-10-106.

Head of department, §25-10-101.

Disbursement of funds, §25-10-127.**Division of volunteerism**, §25-10-128.**Divisions.**

Director.

Head of division, §25-10-102.

Enumerated, §25-10-102.

Heads of divisions.

Appointment by director of
department, §25-10-106.

Reports, §25-10-107.

Economic and medical services.

Division of.

Child support enforcement office.

Transfer, §25-8-107.

Employees.

Health-related services, §25-10-130.

Established, §25-10-101.**Fees.**Charges for institutional services,
§25-10-110.**Funds.**

Advance disbursements, §25-10-127.

Grants-in-aid, §25-10-126.**Interagency fund transfers.**

Matching shares, §25-10-131.

Matching funds transfers, §25-10-131.**Medical services.**

Division of, §25-10-102.

Local and donated funds.

Obtaining federal matching funds,
§25-10-132.**Mental health services.**

Division of, §25-10-102.

Transfer of personnel and
appropriations, §25-10-133.**Office of minority mental health.**Community-based residential
programs, §25-10-134.

Creation, §25-10-122.

Programs and policies.

Development, §25-10-123.

Programs and policies development,
§25-10-123.

State or federal funds, §25-10-124.

Organization.

Generally, §25-10-102.

Program operations.

Division of, §25-10-102.

HUMAN SERVICES DEPARTMENT

—Cont'd

Public lands.

Proceeds from sale of land.

Deposit in special trust fund,
§25-10-121.**Reports.**

Divisions, §25-10-107.

Research and training institute.

Authority, §25-10-120.

Purpose, §25-10-120.

Rules and regulations.Compliance with federal statutes, rules
and regulations, §25-10-129.**State institutional system.**

Board.

Appointment, §25-10-403.

Composition, §25-10-403.

Established, §25-10-402.

Guidelines, §25-10-402.

Contents, §25-10-401.

Creation, §25-10-401.

Purpose, §25-10-402.

State lands.

Proceeds from sale of land.

Deposit in special trust fund,
§25-10-121.**Volunteerism division**, §§25-10-102,
25-10-128.**Warrants.**

Certification of vouchers.

Designated disbursing officers,
§25-10-119.**Youth services.**

Admission policies.

Development of admission policies,
§25-10-109.

Division of, §25-10-102.

I

IMMUNITY.**Interlocal cooperation.**

Waterworks.

Immunity of participating public
agencies, §25-20-318.**INCOME TAX.****Freedom of information.**

State income tax records.

Records deemed not public records,
§25-19-105.**Records.**

Freedom of information.

State income tax records.

Records deemed not public records,
§25-19-105.

INDUSTRIAL DEVELOPMENT.**Department of industrial development.**

Creation, §25-11-101.

Director.

Head of department, §25-11-101.

Organization of department, §25-11-101.

Personnel of department, §25-11-101.

INFORMATION SYSTEMS, §§25-4-101 to 25-4-124.**Application to educational institutions, §25-4-112.****Budgets, §25-4-119.**

Revisions, §25-4-120.

Contracts.

Generally, §25-4-114.

Professional services contracts, §25-4-115.

Definitions, §25-4-103.**Department of information systems.**

Established, §25-4-104.

Powers and duties, §25-4-105.

Revolving fund, §25-4-121.

Funds.

Department of information systems revolving fund, §25-4-121.

Information technology reserve fund, §25-4-123.

Surplus funds, §25-4-124.

Information technology centers, §25-4-109.**Legislative findings, §25-4-102.****Loans, §25-4-122.****Office of information technology, §25-4-104.**

Planning, §25-4-110.

Powers and duties, §25-4-107.

Prerequisites, §25-4-111.

Working groups, §25-4-108.

Payment, §25-4-116.

Cessation of services to nonpaying users, §25-4-117.

Delinquent accounts, §25-4-117.

Reports to joint committee, §25-4-106.**Reserve for equipment acquisition, §25-4-122.****Revisions to processes, §25-4-120.****Surplus funds, §25-4-124.****Title, §25-4-101.****Yearly computation of expenses, §25-4-124.****INFORMATION TECHNOLOGY.****Access for the blind.**

Information technology access for the blind, §§25-26-201 to 25-26-206.

See BLIND PERSONS.

INFORMATION TECHNOLOGY

—Cont'd

Electronic transactions generally, §§25-32-101 to 25-32-120.**State departments and agencies.**

Chief information officers, §§25-33-101 to 25-33-107.

INJUNCTIONS.**Blind persons.**

Information technology access, §25-26-206.

INSPECTIONS.**Auditor of state.**

Access to other offices, §25-16-506.

Treasurer of state.

Access to other offices, §25-16-605.

INSURANCE.**State departments and agencies.**

Records.

Inspection of records, §25-1-103.

INTERLOCAL COOPERATION.**Agreements.**

Approval, §§25-20-104, 25-20-106.

Filing, §25-20-105.

Provisions, §25-20-104.

Requirements, §25-20-104.

Specifications to be included, §25-20-104.

Submission to state officer or agency controlling services or facilities, §25-20-106.

Appropriations, §25-20-107.**Citation of act.**

Short title, §25-20-101.

Contracts.

Services from another agency, §25-20-108.

Damages.

Liability for damages under agreements, §25-20-105.

Definitions, §25-20-103.**Legislative declaration, §25-20-102.****Public library systems.**

Public body corporate and politic.

Board of directors, §25-20-202.

Construction of subchapter, §25-20-206.

Creation, §25-20-201.

Executive director, §25-20-202.

Immunity, §25-20-205.

Powers, §25-20-203.

Tax exempt status, §25-20-204.

Withdrawal of public agency, §25-20-207.

Purpose of provisions, §25-20-102.**Title of act.**

Short title, §25-20-101.

INTERLOCAL COOPERATION

—Cont'd

Waterworks, §§25-20-301 to 25-20-323.

Approval of interlocal agreement, §25-20-302.

Audits, §25-20-321.

Board of commissioners, §25-20-304.

Powers and duties, §25-20-305.

Bond issues for improvements, §25-20-310.

Liability of officers, §25-20-314.

Lien for payment, §25-20-311.

Refunding bonds, §25-20-312.

Security for deposit of public funds, §25-20-313.

Construction of chapter, §25-20-323.

Contributions by public agencies, §25-20-303.

Creation of public body corporate and politic, §25-20-302.

Eminent domain powers, §25-20-309.

Extension of service outside jurisdiction of participating agencies, §25-20-308.

Franchise fee payments to agencies, §25-20-319.

Immunity of participating public agencies, §25-20-318.

Operation of consolidated waterworks system, §25-20-307.

Out of area sales and service, §25-20-308.

Payments in lieu of taxes, §25-20-320.

Powers of public body, §25-20-306.

Recreational use of property, §25-20-315.

Report of activities, §25-20-321.

Supplemental nature of provisions, §25-20-322.

Tax exemptions, §25-20-317.

Payments in lieu of taxes, §25-20-320.

Title of provisions, §25-20-301.

Zoning exemptions, §25-20-316.

INTERNET.**Arkansas register.**

Publication on Internet, §25-15-205.

INTERPRETERS.**Administrative procedure.**

Appointment, §25-15-101.

Deaf persons.

Interpreters for the deaf, §25-15-102.

Generally, §25-15-101.

Oath, §25-15-101.

INVENTORY.**Department of finance and administration.**

Purchasing division.

Inventory of state equipment, §25-8-106.

INVESTIGATIONS.**Federal encroachment on state rights.**

Attorney general.

Request of senators or representatives, §25-21-103.

Law enforcement officers.

Freedom of information.

Undisclosed investigations of suspected criminal activity.

Records deemed not public records, §25-19-105.

J**JUDGES.****Freedom of information.**

Opinions and decisions.

Unpublished drafts of opinions and decisions.

Deemed not public records, §25-19-105.

General assembly.

Acts of general assembly.

Distribution to judges.

Free distribution to judges, §25-18-206.

Municipal judges, §§25-18-206, 25-18-207.

Judicial discipline and disability commission.

Subpoena powers, §25-15-104.

Opinions and decisions.

Freedom of information.

Unpublished drafts of opinions and decisions.

Deemed not public records, §25-19-105.

JUDICIAL NOTICE.**Administrative procedure.**

Adjudication, §25-15-213.

JUSTICE OF THE PEACE COURTS.**General assembly.**

Acts of general assembly.

Distribution to justices of the peace, §25-18-206.

L**LABOR.****Department of labor.**

Continued, §25-12-101.

Director, §25-12-101.

LABOR —Cont'd**Department of labor —Cont'd**

- Divisions of department, §25-12-101.
- Personnel of department, §25-12-101.
- Transfers to department, §25-12-101.

LANDSCAPE ARCHITECTS.**Board of landscape architects.**

- Subpoena powers, §25-15-104.

LAW ENFORCEMENT OFFICERS.**Freedom of information.**

- Investigations.
 - Undisclosed investigations of suspected criminal activity.
 - Records deemed not public records, §25-19-105.

Investigations.

- Freedom of information.
 - Undisclosed investigations of suspected criminal activity.
 - Records deemed not public records, §25-19-105.

Undercover officer lists.

- Public records, §25-19-105.

LAW LIBRARIES.**Supreme court reports.**

- Annual check of county law libraries, §25-18-213.
- Destroyed volumes.
 - Replacement of destroyed volumes, §25-18-215.

LIBRARIES.**Public body corporate and politic,**
§§25-20-201 to 25-20-207.

- See INTERLOCAL COOPERATION.

University of Arkansas.

- Depository for public records, §§25-18-301 to 25-18-308.
- See UNIVERSITY OF ARKANSAS.

LICENSES.**Administrative procedure.**

- Definitions, §25-15-202.
- Proceedings as to, §25-15-211.
- Revocation or suspension of licenses, §25-15-211.

LIENS.**Interlocal cooperation.**

- Waterworks.
 - Bond issues for improvements.
 - Lien for payment, §25-20-311.

LIEUTENANT GOVERNOR.**Salary,** §25-16-101.**Senate.**

- Custodian of senate chamber and records, §25-16-301.

**LIQUEFIED PETROLEUM GAS.
Board.**

- Subpoenas, §25-15-104.

LOCAL GOVERNMENTS.**Interlocal cooperation,** §§25-20-101 to 25-20-108.**LOCAL SERVICES DEPARTMENT.****Advisory boards, commissions and councils.**

- Community services advisory council, §25-10-117.

Community services advisory council.

- Composition, §25-10-117.
- Duties, §25-10-117.
- Established, §25-10-117.
- Generally, §25-10-117.

M**MARTIN LUTHER KING, JR.
COMMISSION.****Creation,** §25-24-101.**Duties,** §25-24-102.**Members,** §25-24-101.**Powers,** §25-24-103.**MEDICAL RECORDS.****Freedom of information.**

- Records deemed not public records, §25-19-105.

MEETINGS.**Freedom of information act.**

- Public meetings.
 - Defined, §25-19-103.
 - Executive sessions.
 - Restrictions on, §25-19-106.
 - Open meetings, §25-19-106.

MENTAL HEALTH.**Human services department.**

- Admission policies.
 - Development by department, §25-10-109.
- Charges for institutional services, §25-10-110.

Office of minority mental health,
§§25-10-122 to 25-10-134.

- Administration.
 - Head of office, §25-10-122.
 - Programs and policies development, §25-10-123.
 - State or federal funds, §25-10-124.
- Creation, §25-10-122.
- Programs and policies development, §25-10-123.

MICROFILM.**Secretary of state.**

- State records, §25-18-102.

MINORITIES.

Office of minority mental health,
§§25-10-122 to 25-10-134.

MISDEMEANORS.**Freedom of information act.**

Negligent violations, §25-19-104.

Settlement agreement violations,
§25-18-403.

State auditor, §25-16-501.

Issuing false treasury warrants,
§25-16-517.

State institution boards.

Oath required, §25-17-207.

State officers.

Failure to serve subpoena, §25-16-705.

Teachers' licenses.

Printing blanks, §25-16-508.

Treasurer of state.

Refusal to pay warrants, §25-16-607.

Violations, §25-16-601.

MOTOR VEHICLES.**Speed.**

Limits.

State institutions.

Posting, §25-17-307.

Rules and regulations, §25-17-307.

State institutions.

Applicability of provisions, §25-17-302.

Rules and regulations, §25-17-307.

Recordation and filing, §25-17-307.

Violations, §25-17-307.

Fines.

Disposition, §25-17-303.

Prosecution, §25-17-303.

Speed limits.

Posting, §25-17-307.

Rules and regulations, §25-17-307.

State motor vehicles.

Cost effectiveness, §25-1-110.

State departments and agencies to
review cost effectiveness,
§25-1-110.

MUNICIPAL CORPORATIONS.**City councils.**

Open public meetings, §25-19-106.

Cooperation.

Interlocal cooperation, §§25-20-101 to
25-20-108.

Governing bodies.

Open public meetings, §25-19-106.

Interlocal cooperation.

General provisions, §§25-20-101 to
25-20-108.

Open public meetings.

City councils, §25-19-106.

Governing bodies, §25-19-106.

N**NATURAL AND CULTURAL
HERITAGE.****Department of Arkansas heritage.**

General provisions, §§25-3-101 to
25-3-108.

NOTICE.**Administrative procedure.**

Adjudication, §25-15-208.

Licenses.

Proceedings as to, §25-15-211.

Rules and regulations.

Adoption, §25-15-204.

Freedom of information.

Notice of request for records,
§25-19-105.

State institutions.

Honorary boards of management.

Removal of member for absence from
meetings, §25-17-211.

Youth services.

Privatizing functions or
responsibilities, §25-10-136.

O**OATHS.****Administrative procedure.**

Interpreters, §25-15-101.

Attorney general.

Administration of oaths, §25-16-705.

Auditor of state.

Deputy.

Oath of office, §25-16-504.

Power to administer, §25-16-507.

Commissioners in other states.

Oath of office, §25-16-204.

Power to administer oaths, §25-16-204.

Validity of oaths administered by,
§25-16-204.

Secretary of state.

Deputy.

Oath of office, §25-16-402.

State institutions.

Honorary boards of management,
§25-17-207.

Treasurer of state.

Deputy.

Oath of office, §25-16-603.

Power to administer, §25-16-606.

OPHTHALMIC DISPENSERS.**Board of dispensing opticians.**

Subpoenas.

Power to issue subpoenas,
§25-15-104.

P

PAPER REDUCTION, §§25-1-201 to 25-1-206.

Budgets, §25-1-204.

Copies filed with Legislative Council, §25-1-205.

Definitions, §25-1-206.

Distribution of publications, §§25-1-202 to 25-1-204.

Filing of copies with Legislative Council, §25-1-205.

Intention of General Assembly, §25-1-201.

Legislative intent, §25-1-201.

Publications, distribution of, §25-1-203.

Budgets, §25-1-204.

Reports, §25-1-202.

State agency, defined, §25-1-206.

PARKS AND RECREATION.

Department of parks and tourism.

Creation, §25-13-101.

Director, §25-13-101.

Divisions, §25-13-101.

Employees, extra help.

Restrictions, §25-13-104.

Expenditures for service charges, §25-13-103.

Extra help restrictions, §25-13-104.

Gratuities.

Use of hotels and restaurants for conventions, etc.

Authorized to pay reasonable charges of involuntary gratuities, §25-13-103.

Great River Road division, §25-13-102.

Mississippi river parkway commission.

Location in Great River Road division, §25-13-102.

State parks, recreation and travel commission.

Transfer of functions, powers and duties to department, §25-13-101.

Tips.

Use of hotels and restaurants for conventions, etc.

Involuntary gratuities.

Authorized to pay reasonable charges of, §25-13-103.

Transfers to department, §25-13-101.

Using services of hotels, restaurants, etc.

Payment of service charges, §25-13-103.

PARTIES.

Administrative procedure.

General assembly.

Stay of proceedings where party or attorney is member or employee of general assembly, §25-15-103.

PERSONAL PROPERTY.

Finance and administration department.

Marketing and redistribution of state personal property, §25-8-106.

PERSONNEL.

Finance and administration department.

Office of personnel management.

Generally, §25-8-103.

PLUMBERS.

Board.

Subpoena powers, §25-15-104.

POLLUTION.

Department of environmental quality.

Creation, §25-14-101.

Director, §25-14-101.

Divisions, §25-14-101.

Generally, §25-14-101.

Hazardous duty compensation, §25-14-102.

PRINTING.

Arkansas heritage department.

Restriction on printing expenditures, §25-3-107.

PRISON TERMS.

State institution board members.

Oath required, §25-17-207.

State officers.

Failure to serve subpoenas, §25-16-705.

PROCUREMENT.

Blind persons.

Information technology access, §25-26-204.

PROPERTY.

State institutions.

Regulation of property.

Applicability of provisions, §25-17-302.

Cumulative nature of provisions, §25-17-302.

Definitions, §25-17-301.

Enforcement of provisions, §25-17-303.

Motor vehicles.

Rules and regulations for motor vehicles on institutional grounds, §25-17-307.

PROPERTY —Cont'd**State institutions —Cont'd**

Regulation of property —Cont'd

Security officers.

Appointment, §25-17-304.

Duties and powers, §25-17-305.

Liability.

Exemption from personal liability, §25-17-306.

Removal, §25-17-304.

PROSECUTING ATTORNEYS.**Attorney general.**

Opinions of attorney general.

Giving opinion to prosecutor, §25-16-706.

PUBLICATION.**Arkansas heritage.**

Department.

Fees for publications, seminars, etc., §25-3-105.

Funds.

Publication, development and resale revolving fund, §25-3-106.

Sales of publications.

Disposition of proceeds into publication, development and resale development fund, §25-3-106.

Deaf persons.

State publications.

References to deaf persons, §25-18-222.

General assembly.

Acts of legislature, §25-18-225.

Certificate of correctness, §25-18-205.

Compensation for copying and indexing acts, §25-18-205.

Delivery by officers to successors, §25-18-207.

Municipal judges, §25-18-207.

Distribution.

Counties, §25-18-206.

Free distribution to certain officers, §25-18-206.

Justices of the peace, §25-18-206.

Library of congress, §25-18-220.

Municipal judges, §§25-18-206, 25-18-207.

Exchange of books with other states and countries, §25-18-220.

Index to acts, §25-18-205.

Lost or destroyed books.

Replacement, §25-18-208.

Penalties.

Failure to deliver books to successors, §25-18-207.

Municipal judges, §25-18-207.

Printing, §25-18-205.

PUBLICATION —Cont'd**General assembly —Cont'd**

Acts of legislature —Cont'd

Sale price, §25-18-209.

Digest.

Mansfield's digest.

Sale price, §25-18-209.

Journal of proceedings of legislature.

Time for publication and distribution, §25-18-204.

Law Library Association, Inc., Shelby County, Tennessee.

Distribution of proceedings of legislature to, §25-18-221.

Messages, reports and other documents ordered to be printed by legislature.

Covers, §25-18-203.

Number of copies, §25-18-202.

Title pages, §25-18-203.

Opinions, quasi judicial, §25-18-224.**Orders, quasi judicial, §25-18-224.****Penalties.**

General assembly.

Acts of legislature.

Failure of officers to deliver to successors, §25-18-207.

Quasi judicial opinions and orders, §25-18-224.**Secretary of state.**

Bound book report, §25-18-223.

State of Arkansas.

Messages, reports and other documents.

Covers and title pages, §25-18-203.

Number of copies, §25-18-202.

Universities and colleges.

Libraries.

Furnishing state and subdivision publications to.

Designated as depositories, §25-18-306.

Procedure, §25-18-307.

University of Arkansas.

General library.

Federal publications to be furnished, §25-18-305.

State depository for public documents, §25-18-301.

Furnishing of publications to library, §§25-18-302, 25-18-303.

County and municipal governments, §25-18-304.

PUBLIC OFFICERS AND EMPLOYEES.**Bonds, surety.**

Secretary of state, §25-16-401.

**PUBLIC OFFICERS AND
EMPLOYEES —Cont'd**

Commissioners in other states,
§25-16-204.

Commissions.

Blanks for officer's commissions.

Auditor of state.

Furnishing, §25-16-508.

Possession by officer other than
state auditor.

Penalty, §25-16-508.

**Employee evaluation or job
performance.**

Freedom of information.

Availability to employee or
designated representative,
§25-19-105.

Records deemed public records,
§25-19-105.

Freedom of information.

Employee evaluation or job
performance.

Records deemed public records,
§25-19-105.

Personnel records disclosure.

Invasion of personal privacy.

Availability of records to employee
or designated representative,
§25-19-105.

Records deemed not public records,
§25-19-105.

Job performance evaluations.

Availability to employee or designated
representative, §25-19-105.

Freedom of information.

Records deemed public records,
§25-19-105.

Records.

Employee evaluation or job
performance.

Freedom of information.

Records deemed public records,
§25-19-105.

Freedom of information.

Availability to employee or
designated representative,
§25-19-105.

Personnel records disclosure.

Invasion of personal privacy.

Records deemed not public
records, §25-19-105.

Job performance evaluations.

Availability to employee or
designated representative,
§25-19-105.

Freedom of information.

Records deemed public records,
§25-19-105.

**PUBLIC OFFICERS AND
EMPLOYEES —Cont'd**

Records —Cont'd

Personnel records disclosure.

Invasion of personal privacy.

Availability of records to employee
or designated representative,
§25-19-105.

PUBLIC RECORDS.

Freedom of information.

General provisions, §§25-19-101 to
25-19-109.

General provisions, §§25-18-101 to
25-18-308.

PUBLIC SERVICE COMMISSION.

Assessment coordination division.

Transfer to assessment coordination
department, §25-28-102.

Q

QUO WARRANTO.

Attorney general.

Power to issue writ, §25-16-704.

R

RACIAL MINORITIES.

Office of minority mental health,
§§25-10-122 to 25-10-134.

RECORDS.

Administrative procedure.

Adjudication, §25-15-208.

Adoption.

Freedom of information.

Records deemed not public records,
§25-19-105.

Archeological survey.

Freedom of information.

Site files and records.

Records deemed not public records,
§25-19-105.

Attorney general.

Freedom of information.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Auditor of state.

Register of bank fund checks,
§25-16-511.

Compromise and settlement.

Public records.

Litigation settlement agreements,
§§25-18-401 to 25-18-403.

Disclosure requirements,
§25-18-401.

RECORDS —Cont'd**Compromise and settlement —Cont'd**

Public records —Cont'd

Litigation settlement agreements
—Cont'dInapplicability of subchapter,
§25-18-402.Violations as misdemeanors,
§25-18-403.**Copies.**

Public records.

Facsimile copies.

Fee for facsimile copy, §25-18-103.

Reproduction of records generally,
§25-18-101.**Electronic records and signatures.**Electronic transactions generally,
§§25-32-101 to 25-32-120.

Generally, §§25-31-101 to 25-31-105.

Fees.

Public records.

Reproduction of records.

Facsimile copy fee, §25-18-103.

**Finance and administration
department.**

Access to agency records, §25-1-104.

Freedom of information act.General provisions, §§25-19-101 to
25-19-109.

Public records.

Defined, §25-19-103.

Examination and copying,
§25-19-105.**General assembly.**

Freedom of information.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**Governor.**

Freedom of information.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**Historical preservation program.**

Freedom of information.

Site files and records.

Records deemed not public records,
§25-19-105.**Income tax.**

Freedom of information.

State income tax records.

Records deemed not public records,
§25-19-105.**Insurance.**

State departments and agencies.

Inspection of records, §25-1-103.

RECORDS —Cont'd**Litigation settlement agreements.**Public records, §§25-18-401 to
25-18-403.**Misdemeanors.**

Litigation settlement agreements.

Violations of subchapter, §25-18-403.

Penalties.

Litigation settlement agreements.

Violations of subchapter, §25-18-403.

Public officers and employees.Employee evaluation or job
performance.

Freedom of information.

Records deemed public records,
§25-19-105.

Freedom of information.

Availability to employee or
designated representative,
§25-19-105.

Personnel records disclosure.

Invasion of personal privacy.

Records deemed not public
records, §25-19-105.

Job performance evaluations.

Availability to employee or
designated representative,
§25-19-105.

Freedom of information.

Records deemed public records,
§25-19-105.

Personnel records disclosure.

Invasion of personal privacy.

Availability of records to employee
or designated representative,
§25-19-105.**Public records.**

Depositories for public records.

County and municipal publications.

Forwarding to depository,
§25-18-304.Furnishing to state library,
§25-18-308.

Procedure to obtain, §25-18-307.

Designation of official state
depository, §25-18-301.

Federal publications.

Forwarding to depository,
§25-18-305.

Municipal publications.

Forwarding to depository,
§25-18-304.Furnishing to state library,
§25-18-308.

Procedure to obtain, §25-18-307.

Partial depositories.

Designation, §25-18-306.

RECORDS —Cont'd**Public records —Cont'd**

Depositories for public records

—Cont'd

Printing.

Payment for printing, §25-18-303.

Selective and partial depositories.

Designation, §25-18-306.

Procedure to obtain state and local publications, §25-18-307.

State library.

State and local publications furnished to state library, §25-18-308.

State publications.

Forwarding to depository, §25-18-302.

Furnishing to state library, §25-18-308.

Procedure to obtain, §25-18-307.

United States.

Forwarding federal publications to depository, §25-18-305.

University of Arkansas.

Library.

Mullins Library designated official state depository, §25-18-301.

Facsimile copies.

Fee, §25-18-103.

Freedom of information.

Defined, §25-19-103.

Examination and copying, §25-19-105.

General provisions, §§25-19-101 to 25-19-109.

Litigation settlement agreements, §§25-18-401 to 25-18-403.

Disclosure requirements, §25-18-401.

Inapplicability of subchapter, §25-18-402.

Violations as misdemeanors, §25-18-403.

Microfilming records.

Secretary of state, §25-18-102.

Reproduction of records, §25-18-101.

Fee for facsimile copies, §25-18-103.

State publications.

Deaf people.

References to deaf people, §25-18-222.

Depositories for public records.

Furnishing state publications to official state depository, §25-18-302.

Furnishing state publications to state library, §25-18-308.

RECORDS —Cont'd**Public records —Cont'd**

State publications —Cont'd

Depositories for public records —Cont'd

Procedure to obtain state publications, §25-18-307.

Digests, acts and journals.

Annual settlement, §25-18-207.

Delivery to successors, §25-18-207.

Distribution, §25-18-206.

Price of digests and acts, §25-18-209.

Sale of digests and acts, §25-18-209.

Exchange of books with federal, state and foreign entities, §25-18-220.

General assembly.

Acts of general assembly, §25-18-205.

Annual settlement, §25-18-207.

Delivery to successors, §25-18-207.

Distribution, §25-18-206.

Lost or destroyed books, §25-18-208.

Price, §25-18-209.

Sale, §25-18-209.

Journals of legislative proceedings, §25-18-204.

Annual settlement, §25-18-207.

Delivery to successors, §25-18-207.

Distribution, §25-18-206.

Lost or destroyed books, §25-18-208.

Law Library Association, Inc., Shelby County, Tennessee.

Distribution of reports and proceedings of general assembly to law library association, §25-18-221.

Messages, reports and other documents.

Covers and title pages, §25-18-203.

Number of copies, §25-18-202.

Secretary of state.

Bound book report, §25-18-223.

Supreme court reports.

Clerks of court.

Annual check of offices, §25-18-213.

Duties of clerks, §25-18-212.

Replacement of missing books by circuit clerk, §25-18-214.

County libraries.

Annual check, §25-18-213.

RECORDS —Cont'd**Public records —Cont'd**

- State publications —Cont'd
- Supreme court reports —Cont'd
 - Destroyed volumes.
 - Replacement, §25-18-215.
- Distribution, §25-18-210.
 - Expense of distribution, §25-18-217.
- Justices of supreme court.
 - Additional set for supreme court justices, §25-18-211.
- Number of copies reserved, §25-18-216.
- Price, §25-18-218.
- Size, §25-18-218.

Secretary of state.

- Copies.
 - Fee for facsimile copies of state records, §25-18-103.
- Microfilming state records, §25-18-102.

State departments and agencies.

- Department of finance and administration.
 - Access to agency records, §25-1-104.

Insurance.

- Inspection of records, §25-1-103.

Universities and colleges.

- Scholastic records.
 - Freedom of information.
 - Records deemed not public records, §25-19-105.

University of Arkansas.

- Depository for public records, §§25-18-301 to 25-18-308.

RECYCLING.**Computer recycling and electronic solid waste, §§25-34-101 to 25-34-111.****State departments and agencies.**

- Computer recycling and electronic solid waste, §§25-34-101 to 25-34-111.

REHABILITATION SERVICES,

- §§25-30-201 to 25-30-205.

Duties, §25-30-203.**Eligibility for retirement systems, §25-30-204.****Generally, §25-30-201.****Office facilities, §25-30-205.****Policy, §25-30-201.****Powers, §25-30-203.****Retirement, §25-30-204.****Scope, §25-30-202.****REPAIRS.****Charities.**

- Damages to charitable institution.
 - Board of trustees.
 - Authorized to borrow money, §25-17-103.

State institutions.

- Damages to charitable institution.
 - Board of trustees authorized to borrow money to repair, §25-17-103.

REPORTS.**Arkansas heritage department.**

- Heritage foundation.
 - Amount and source of gifts, grants and donations, §25-3-108.

Auditor of state.

- Biennial report of auditor, §25-16-513.
- General assembly.
 - Joint committee to examine books, §25-16-512.

Warrants for payment of money.

- Report to treasurer of amount of warrants drawn, §25-16-515.

Deaf and hearing impaired telecommunications services corporation.

- Annual report, §25-29-110.

Finance and administration department.

- Revenue division.
 - Child support enforcement program, §25-10-118.

Governor.

- State auditor to report to governor, §25-16-203.
- State treasurer.
 - Report to governor, §25-16-203.

Human services department.

- Divisions, §25-10-107.

Interlocal cooperation.

- Waterworks.
 - Report of activities, §25-20-321.

Paper reduction, §25-1-202.**State departments and agencies.**

- Grants in excess of certain amount, §25-1-108.
- Transfers of agencies, §25-2-108.

Treasurer of state.

- Biennial report, §25-16-610.
- Holford bonds not reported as indebtedness of state, §25-16-610.

REPORTS —Cont'd**Treasurer of state —Cont'd**

Joint legislative committee to examine books, §25-16-615.

Quarterly report to governor on notes and money from sale of state lands, §25-16-611.

S**SALARIES.****Governor.**

Transition funds.

Not to be used to pay salary, §25-16-205.

SALES.**Supreme court reports.**

Price, §25-18-218.

SEALS AND SEALED INSTRUMENTS.**Auditor of state.**

Seal of office, §25-16-503.

Secretary of state.

Affixation of seal of state, §25-16-403.

Seal of office, §25-16-403.

Treasurer of state.

Seal of office, §25-16-602.

SECRETARY OF STATE.

Arkansas ambassador's certificates, §25-16-405.

Arkansas register.

Duties as to, §25-15-205.

Attestation of official act, §25-16-403.

Bonds, surety, §25-16-401.

Bound book report.

Publication, §25-18-223.

Copies.

Official papers, §25-16-403.

Records.

Facsimile copies of state records.

Fee, §25-18-103.

Corporation clerk.

Deputy secretary of state, §25-16-402.

Deputy.

Appointment, §25-16-402.

Corporation clerk made deputy, §25-16-402.

Duties, §25-16-402.

Oath of office, §25-16-402.

Fees.

Copies.

Facsimile copies of state records, §25-18-103.

General assembly.

Acts of general assembly.

Exchange of books with federal, state and foreign entities, §25-18-220.

SECRETARY OF STATE —Cont'd**General assembly —Cont'd**

Records.

Custodian of records of general assembly, §25-16-403.

Microfilm.

State records, §25-18-102.

Oaths.

Deputy.

Oath of office, §25-16-402.

Publication.

Bound book report, §25-18-223.

State departments and divisions.

Publications furnished to secretary of state, §25-18-308.

Records.

Copies.

Fee for facsimile copies of state records, §25-18-103.

Microfilming state records, §25-18-102.

Salary, §25-16-101.

Seals and sealed instruments.

Affixation of seal of state, §25-16-403.

Seal of office, §25-16-403.

SERVICE OF PROCESS.**Attorney general.**

Subpoenas of attorney general, §25-16-705.

SIGNATURES.

Electronic records and signatures generally, §§25-31-101 to 25-31-105.

Electronic transactions generally, §§25-32-101 to 25-32-120.

SOCIAL WORKERS.**Licensing board.**

Subpoena powers, §25-15-104.

SOLID WASTE DISPOSAL.

Computer recycling and electronic solid waste, §§25-34-101 to 25-34-111.

State departments and agencies.

Computer recycling and electronic solid waste, §§25-34-101 to 25-34-111.

STATE DEPARTMENTS AND AGENCIES.**Administration.**

Department of finance and administration, §§25-8-101 to 25-8-108.

Administrative procedure.

General provisions, §§25-15-101 to 25-15-214.

Arkansas heritage.

Department of Arkansas heritage, §§25-3-101 to 25-3-108.

STATE DEPARTMENTS AND AGENCIES —Cont'd

Assessment coordination department, §§25-28-101 to 25-28-107.

Attorney general.

Representation of state agencies and officers, §25-16-702.

Employment of outside counsel, §25-16-702.

Chief information officers.

Appeals by agencies, §25-33-107.

CIO council, §25-33-105.

Definitions, §25-33-102.

Executive chief information officer.

Creation of position, §25-33-103.

Powers and duties, §25-33-104.

Information technology oversight committee, §25-33-106.

Legislative purpose, §25-33-101.

Cigarettes and tobacco products.

Smoking.

Promulgation of smoking policy, §25-1-102.

CIO council, §25-33-105.

Computer recycling and electronic solid waste, §§25-34-101 to 25-34-111.

Definitions.

Transfer of department, agency, etc.

Type 1 transfers, §25-2-104.

Type 2 transfers, §25-2-105.

Type 3 transfers, §25-2-106.

Type 4 transfers, §25-2-107.

Education.

Department of education, §§25-6-101, 25-6-102.

Exceptions to provisions.

Certain orders, rules, regulations and standards, §25-2-103.

Healing arts.

Licensing boards, §25-2-102.

Finance.

Department of finance and administration, §§25-8-101 to 25-8-108.

Funds.

Violence against persons, administration, §§25-1-107, 25-1-111.

Governor.

Reorganization of agencies to meet federal program requirements, §25-16-201.

Grants, aids and donations.

Reports to legislative council, §25-1-108.

STATE DEPARTMENTS AND AGENCIES —Cont'd

Healing arts.

Licensing boards.

Exemption from provisions, §25-2-102.

Human services department.

Blind persons.

Division of state services for the blind, §§25-10-201 to 25-10-207.

Generally, §§25-10-101 to 25-10-133.

Office of minority mental health, §25-10-122 to 25-10-133.

Information.

Providing department of finance and administration, §25-1-104.

Information technology oversight committee, §25-33-106.

Interlocal cooperation.

General provisions, §§25-20-101 to 25-20-108.

Legislative declaration, §25-2-101.

Motor vehicles.

State owned motor vehicles.

Cost effectiveness, §25-1-110.

Open public meetings, §25-19-106.

Opinions and orders.

Distribution, §25-18-224.

Paper reduction, §§25-1-201 to 25-1-206.

Parks and recreation.

Department of parks and tourism, §§25-13-101 to 25-13-104.

Publications.

Quasi judicial opinions and orders, §25-18-224.

Secretary of state.

Publications furnished to secretary of state, §25-18-308.

Public service announcements.

Captioning on television, §25-1-109.

Purpose of provisions, §25-2-101.

Records.

Department of finance and administration.

Access to agency records, §25-1-104.

Insurance.

Inspection of records, §25-1-103.

Reports.

Transfers of agencies, §25-2-108.

Sunshine law, §25-19-106.

Televised public service announcements.

Captioning, §25-1-109.

Tourism.

Department of parks and tourism, §§25-13-101 to 25-13-104.

STATE DEPARTMENTS AND AGENCIES —Cont'd

Transfers.

Effect.

Certain orders, rules, regulations and standards, §25-2-103.

Reports, certifications, applications or requests, §25-2-108.

Purpose of provisions, §25-2-101.

Type 1 transfers, §25-2-104.

Type 2 transfers, §25-2-105.

Type 3 transfers, §25-2-106.

Type 4 transfers, §25-2-107.

Violence against persons, funds.

Administration generally, §25-1-107.

Designation of agency to administer, §25-1-111.

STATE INSTITUTIONS.

Affidavits.

Claims.

Presenting of claims, §25-17-102.

Arrest.

Security officers.

Powers, §25-17-305.

Claims.

Allowance of claims.

Appropriation as prerequisite to payment, §25-17-102.

Claims not conforming with law.

Allowance prohibited, §25-17-102.

Greater amount than due.

Prohibited, §25-17-102.

Witnesses.

Examination, §25-17-102.

Presenting of claims.

Itemized account required, §25-17-102.

Method, §25-17-102.

Construction and interpretation.

Property.

Regulation of property.

Cumulative nature of provisions, §25-17-302.

Definitions.

Property.

Regulation of property, §25-17-301.

Honorary boards of management.

Appointment of members, §25-17-204.

Blind persons.

School for the blind.

Board of trustees of school for the blind to contain one blind person, §25-17-205.

Creation, §25-17-201.

Deaf persons.

School for the deaf.

Board of trustees to contain one deaf person, §25-17-205.

STATE INSTITUTIONS —Cont'd

Honorary boards of management

—Cont'd

Duties, §25-17-202.

Eligibility for membership, §25-17-203.

Established, §25-17-201.

Meetings.

Absence of member.

Grounds for removal, §25-17-211.

Generally, §25-17-208.

Open meetings, §25-17-208.

Members.

Absence of member from meetings.

Grounds for removal, §25-17-211.

Appointment and terms, §25-17-204.

Eligibility for membership, §25-17-203.

Oath, §25-17-207.

Removal of members, §25-17-210.

Absence of member from meeting as grounds for removal, §25-17-211.

Oath of members, §25-17-207.

Powers, §25-17-202.

Removal of members.

Absence from meeting as grounds, §25-17-211.

Procedure, §25-17-210.

Terms of members, §25-17-204.

Motor vehicles.

Applicability of provisions, §25-17-302.

Rules and regulations, §25-17-307.

Recordation and filing, §25-17-307.

Violations, §25-17-307.

Fines.

Disposition, §25-17-303.

Prosecution, §25-17-303.

Speed limits.

Posting, §25-17-307.

Rules and regulations, §25-17-307.

Oaths.

Honorary boards of management, §25-17-207.

Property.

Regulation of property.

Applicability of provisions, §25-17-302.

Cumulative nature of provisions, §25-17-302.

Definitions, §25-17-301.

Enforcement of provisions, §25-17-303.

Motor vehicles.

Rules and regulations for motor vehicles on institutional grounds, §25-17-307.

Security officers.

Appointment, §25-17-304.

Duties and powers, §25-17-305.

STATE INSTITUTIONS —Cont'd**Property —Cont'd**

Regulation of property —Cont'd

Security officers —Cont'd

Liability.

Exemption from personal liability, §25-17-306.

Removal, §25-17-304.

Repairs.

Damages to charitable institution.

Board of trustees authorized to borrow money to repair, §25-17-103.

Rules and regulations.

Motor vehicles, §25-17-307.

Property.

Regulation of property.

Motor vehicles on institutional grounds, §25-17-307.

Security officers.

Applicability of provisions, §25-17-302.

Arrest.

Powers, §25-17-305.

Duties, §25-17-305.

Liability.

Exemption from personal liability under act, §25-17-306.

Personal liability.

Exemption, §25-17-306.

Police supervision, §25-17-305.

Powers, §25-17-305.

Trespass.

Applicability of provisions, §25-17-302.

Fines.

Disposition, §25-17-303.

Prosecution of actions, §25-17-303.

Witnesses.

Claims.

Allowance of claims.

Examination of witnesses, §25-17-102.

STATE LANDS.**Commissioner of state lands.**

Compensation, §25-16-101.

Salary, §25-16-101.

Human services department.

Proceeds from sale of land.

Deposit in special trust fund, §25-10-121.

STATE LIBRARY.**State and local publications furnished to state library,** §25-18-308.**Universities and colleges.**

Depositories for public records.

Procedure to obtain state and local publications.

State library to furnish, §25-18-307.

STATE OF ARKANSAS.**Administrative procedure.**

General provisions, §§25-15-101 to 25-15-214.

Attorney general.

Real property bought by state.

Examination of abstract, §25-16-706.

Representation of state interests in federal courts, §25-16-703.

Publication.

Messages, reports and other documents.

Covers and title pages, §25-18-203.

Number of copies, §25-18-202.

Seat of government.

Emergency temporary location.

Applicability of provisions, §25-1-101.

Generally, §25-1-101.

Validation of acts performed at, §25-1-101.

STATES' RIGHTS.**Federal encroachment,** §§25-21-101 to 25-21-106.**STATUTES.****Publication and distribution of acts,** §25-18-225.**STAYS.****Administrative procedure.**

General assembly.

Stay of proceedings where party or attorney is member or employee of general assembly, §25-15-103.

SUBPOENAS.**Administrative procedure.**

Adjudication, §25-15-213.

Attorney general.

Failure of witness to appear.

Citation, §25-16-705.

Penalty, §25-16-705.

Form, §25-16-705.

Power of attorney general, §25-16-705.

Service, §25-16-705.

Failure of officer to serve.

Penalty, §25-16-705.

Forms.

Attorney general, §25-16-705.

SUNSHINE LAW, §25-19-106.**SUPPORT AND MAINTENANCE.****Finance and administration department.**

Revenue division.

Child support enforcement program reports, §25-10-118.

SUPREME COURT.**Attorney general.**

Attendance, §25-16-704.

Failure to attend.

Substitute appointed by court,
§25-16-704.**Chief justice.**

Freedom of information.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**Freedom of information.**

Justices.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**Justices.**

Freedom of information.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.

Supreme court reports.

Additional set for supreme court
justices, §25-18-211.**SUPREME COURT REPORTS.****Administrative office of the courts.**

Distribution, §25-18-210.

Expense of distribution, §25-18-217.

Exchange of books with other states
and counties, §25-18-220.Number of copies reserved by,
§25-18-216.**Clerks of court.**

Circuit court clerks.

Annual check of offices of clerk,
§25-18-213.

Duties of clerks, §25-18-212.

Missing books.

Replacement by clerk, §25-18-214.

Distribution, §25-18-210.

Expenses, §25-18-217.

**Exchange of books with other states
and counties, §25-18-220.****Justices of supreme court.**Additional set for supreme court
justices, §25-18-211.**Law libraries.**Annual check of county law libraries,
§25-18-213.

Destroyed volumes.

Replacement of destroyed volumes,
§25-18-215.**Law Library Association, Inc.,
Shelby County, Tennessee.**

Distribution of report to, §25-18-221.

SUPREME COURT REPORTS

—Cont'd

Number of copies reserved,
§25-18-216.**Price, §25-18-218.****Sales.**

Price, §25-18-218.

Size, §25-18-218.**T****TAXATION.****Exemptions from taxation.**

Interlocal cooperation.

Waterworks, §25-20-317.

Interlocal cooperation.

Waterworks.

Tax exemptions, §25-20-317.

TEACHERS.**Auditor of state.**Blanks for teachers' licenses,
§25-16-508.**TELECOMMUNICATIONS AND
INFORMATION TECHNOLOGY.****Deaf and hearing impaired
telecommunications services
corporation, §§25-29-101 to
25-29-112.****Information network.**

Board, §25-27-103.

Citation of chapter, §25-27-101.

Creation, §25-27-103.

Definitions, §25-27-102.

Duties, §25-27-104.

Network manager, §25-27-105.

Short titles, §25-27-101.

TELEVISION.**State departments and agencies.**

Public service announcements.

Captioning on television, §25-1-109.

TOURISM.**State departments and agencies.**Department of parks and tourism,
§§25-13-101 to 25-13-104.**TOWNSHIPS.****Governing bodies.**

Open public meetings, §25-19-106.

Open public meetings.

Governing bodies, §25-19-106.

TRADE SECRETS.**Freedom of information.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.

TREASURER OF STATE.**Accountants.**

Examination of books.

Accountants appointed by governor,
§25-16-614.

Accounts and accounting.

Accountants appointed by governor.

Fees, §25-16-614.

Duties, §25-16-604.

Examination of books.

Accountants appointed by governor,
§25-16-614.

Divulging appointment.

Accountant not to divulge,
§25-16-614.

Free access to books, §25-16-614.

Joint legislative committee,
§25-16-615.

Joint legislative committee to examine
books, §25-16-615.

Deputy.

Appointment, §25-16-603.

Oath of office, §25-16-603.

Powers, §25-16-603.

Responsibility for acts, §25-16-603.

Duties, §25-16-604.

Letter book.

Duty to keep, §25-16-613.

Willful neglect or refusal to perform
duty.

Penalty, §25-16-601.

Extortion.

Penalty, §25-16-601.

Felonies.

Examination of books by accountant
appointed by governor.

Refusal to permit free access to
books, §25-16-614.

General assembly.

Joint committee to examine books,
§25-16-615.

Report, §25-16-615.

Approval.

Action on approving report,
§25-16-615.

Unfavorable report.

Action on, §25-16-615.

Governor.

Reports to governor, §25-16-203.

Inspections.

Access to other offices, §25-16-605.

Letter book.

Duty to keep, §25-16-613.

Misdemeanors.

Violations of law by treasurer,
§25-16-601.

Warrants for payment of money.

Refusing to pay warrant, §25-16-607.

TREASURER OF STATE —Cont'd**Oaths.**

Deputy.

Oath of office, §25-16-603.

Power to administer, §25-16-606.

Penalties.

Examination of books by accountant
appointed by governor.

Refusal to permit free access to
books, §25-16-614.

Violation of law by treasurer,
§25-16-601.

Warrants for payment of money.

Refusing to pay warrant, §25-16-607.

Reports.

Biennial report, §25-16-610.

Holford bonds not reported as
indebtedness of state, §25-16-610.

Joint legislative committee to examine
books, §25-16-615.

Quarterly report to governor on notes
and money from sale of state
lands, §25-16-611.

Salary, §25-16-101.**Seal of office, §25-16-602.****Vacancy in office.**

Examination of books by accountant
appointed by governor.

Refusal to permit free access to
books, §25-16-614.

Warrants for the payment of money.

Payment of state auditor's warrants.

Appropriations.

No payment made without
appropriation, §25-16-607.

Balancing books, §25-16-612.

Cancellation on payment,
§25-16-607.

Certificates or scrip.

Issuance on auditor's warrants
unlawful, §25-16-608.

Insufficient funds.

Method of paying warrants when
funds insufficient, §25-16-607.

Payments made only on auditor's
warrants, §25-16-607.

Refusing to pay warrant.

Penalty, §25-16-607.

Uncollectible state warrants or checks.

Claims for reimbursement,
§25-16-609.

Payment of claims, §25-16-609.

Referral to general assembly,
§25-16-609.

TRESPASS.**State institutions.**

Applicability of provisions, §25-17-302.

TRESPASS —Cont'd**State institutions —Cont'd**

Fines.

Disposition, §25-17-303.

Prosecution of actions, §25-17-303.

U**UNFAIR COMPETITION AND
TRADE PRACTICES.****Freedom of information.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**UNIFORM ELECTRONIC
TRANSACTIONS ACT, §§25-32-101
to 25-32-120.****UNIFORM LAWS.****Electronic transactions.**Uniform electronic transactions act,
§§25-32-101 to 25-32-120.**Federal encroachment on state
rights.**Uniform law to oppose federal
encroachments, §§25-21-101 to
25-21-106.**UNITED STATES.****Federal encroachment on state
rights, §§25-21-101 to 25-21-106.****Finance and administration
department.**

Federal aid programs.

Duties of department as to,
§25-8-105.**UNIVERSITIES AND COLLEGES.****Center for workforce excellence,
§25-7-102.**

Establishment, §25-7-102.

Department of higher education.Center for workforce excellence,
§25-7-102.

Creation, §25-7-101.

Director, §25-7-101.

Divisions, §25-7-101.

Generally, §25-7-101.

Personnel of department, §25-7-101.

Depositories for public records.

Selective and partial depository.

Designation, §25-18-306.

Procedure to obtain state and local
publications, §25-18-307.**Freedom of information.**

Scholastic records.

Records deemed not public records,
§25-19-105.**UNIVERSITIES AND COLLEGES**

—Cont'd

Publication.

Libraries.

Furnishing state and subdivision
publications to.Designated as depositories,
§25-18-306.

Procedure, §25-18-307.

Records.

Scholastic records.

Freedom of information.

Records deemed not public records,
§25-19-105.**Scholastic records.**

Freedom of information.

Records deemed not public records,
§25-19-105.**State library.**

Depositories for public records.

Procedure to obtain state and local
publications.State library to furnish,
§25-18-307.**UNIVERSITY OF ARKANSAS.****Depository for public records.**

County and municipal publications.

Furnishing to depository, §25-18-304.
Designation as official state depository,
§25-18-301.

Federal publications.

Furnishing to library, §25-18-305.

Printing.

Payment for printing, §25-18-303.

State publications.

Furnishing to depository, §25-18-302.

Publications.

General library.

Federal publications to be furnished,
§25-18-305.State depository for public
documents, §25-18-301.Furnishing of publications to
library, §§25-18-302, 25-18-303.County and municipal
governments, §25-18-304.**UNIVERSITY OF CENTRAL
ARKANSAS.****Board of trustees.**

Honorary boards of management.

General provisions, §§25-17-201 to
25-17-211.**V****VENUE.****Attorney general.**

Money due state.

Collection.

Suits for funds due state,
§25-16-708.

VETERINARIANS.**Examining board.**

Subpoenas.

Powers, §25-15-104.

VICTIMS OF CRIME.**Funds.**

Advisory bodies, fund administration duties, §25-1-107.

State agency designated to administer, §25-1-111.

VOLUNTEERS.**Human services department.**

Division of volunteerism, §25-10-128.

W**WARRANTS FOR THE PAYMENT OF MONEY.****Auditor of state.**

Appropriations.

No warrant drawn without appropriation, §25-16-517.

Bonds, surety, §25-16-519.

Review of bonding procedures, §25-16-519.

Drawing, §25-16-516.

Duplicate warrants.

Issuance, §25-16-519.

Review of bonding procedures, §25-16-519.

Form, §25-16-516.

Illegal issuance.

Penalty, §25-16-517.

Interest.

Not to bear interest, §25-16-518.

Loss or destruction of warrants.

Duplicate warrants.

Issuance, §25-16-519.

Numbering warrants progressively, §25-16-516.

Offset.

Use as offset prohibited, §25-16-518.

Register of warrants, §25-16-516.

Report to treasurer of amount of warrants drawn, §25-16-515.

School purposes.

No warrant drawn on general revenues for, §25-16-517.

State debt.

Warrants not received in payment of, §25-16-518.

Claims against the state.

Uncollectible state warrants or checks, §25-16-609.

Forms.

Auditor's warrant, §25-16-516.

WARRANTS FOR THE PAYMENT OF MONEY —Cont'd**Treasurer of state.**

Payment of state auditor's warrants.

Appropriations.

No payment made without appropriation, §25-16-607.

Balancing books, §25-16-612.

Cancellation on payment, §25-16-607.

Certificates or scrip.

Issuance on auditor's warrants unlawful, §25-16-608.

Insufficient funds.

Method of paying warrants when funds insufficient, §25-16-607.

Payments made only on auditor's warrants, §25-16-607.

Refusing to pay warrant.

Penalty, §25-16-607.

Uncollectible state warrants or checks.

Claims for reimbursement, §25-16-609.

Payment of claims, §25-16-609.

Referral to general assembly, §25-16-609.

WATER SUPPLY AND WATERWORKS.**Consolidated waterworks****authorization act**, §§25-20-301 to 25-20-323.**Interlocal cooperation.**

Consolidated waterworks authorization act, §§25-20-301 to 25-20-323.

WITNESSES.**Administrative procedure.**

Adjudication, §25-15-213.

Attorney general.

Oaths.

Administration of oaths, §25-16-705.

State institutions.

Claims.

Allowance of claims.

Examination of witnesses, §25-17-102.

WORKFORCE EDUCATION,

§§25-30-101 to 25-30-109.

Adult education funds, §25-30-103.**Board.**

Adult education funds, §25-30-103.

Creation, §25-30-101.

Higher education coordinating board.

Coordination with, §25-30-105.

Powers and duties, §25-30-102.

State board of education.

Coordination with, §25-30-104.

**WORKFORCE EDUCATION —Cont'd
Department.**

Authority to enter into contracts,
§25-30-108.

Creation, §25-30-106.

Powers and duties, §25-30-107.

Director.

Authority to enter into contracts,
§25-30-108.

**Higher education coordinating
board, §25-30-105.****Industry training program.**

Transfer of powers, §25-30-109.

**Powers and duties of board,
§25-30-102.****Transfer of powers, §25-30-109.****Y****YOUTH SERVICES.**

Education requirements, §25-10-138.

YOUTH SERVICES —Cont'd**Human services department.**

Admission policies.

Development of admission policies,
§25-10-109.

**Privatizing functions or
responsibilities.**

Evaluation, §25-10-137.

Notice, §25-10-136.

Training requirements, §25-10-139.**Z****ZONING.****Interlocal cooperation.**

Waterworks.

Zoning exemptions, §25-20-316.

Index to Title 24 (9-12), Title 25

A

ACCOUNTANTS.

Treasurer of state.

Examination of books.

Accountants appointed by governor,
§25-16-614.

ACCOUNTS AND ACCOUNTING.

Auditor of state.

Certification of payments, §25-16-509.

Duties of auditors, §25-16-505.

Examination of books.

Joint legislative committee,
§25-16-512.

Ex officio state accountant, §25-16-510.

Joint legislative committee to examine
books, §25-16-512.

Preservation of account, §25-16-511.

Local police and fire retirement system.

Asset accounts, §24-10-403.

Employer accumulation account,
§24-10-405.

Income-expense account, §24-10-407.

Members' deposit account, §24-10-404.

Retirement reserve account,
§24-10-406.

Treasurer of state.

Accountants appointed by governor.

Fees, §25-16-614.

Duties, §25-16-604.

Examination of books.

Accountants appointed by governor,
§25-16-614.

Divulging appointment.

Accountant not to divulge,
§25-16-614.

Free access to books, §25-16-614.

Joint legislative committee,
§25-16-615.

Joint legislative committee to examine
books, §25-16-615.

ACTIONS.

Administrative procedure.

Agency failing to act, §25-15-214.

Attorney general.

Defaulting officers.

Suits against officers indebted to
state, §25-16-709.

Assistant attorneys.

Employment, §25-16-709.

ACTIONS —Cont'd

Attorney general —Cont'd

Defaulting officers —Cont'd

Suits against officers indebted to
state —Cont'd

Failure to bring suit.

Employment of attorney by
governor, §25-16-709.

Money due state.

Collection.

Generally, §25-16-708.

ACTS.

Publishing and distribution, §25-18-225.

ACTUARIES.

Local police and fire retirement system.

Board of trustees.

Appointment of actuary, §24-10-204.

Valuations of each employers
participation, §24-10-401.

ADMINISTRATIVE PROCEDURE.

Actions.

Agency failing to act, §25-15-214.

Adjudication.

Appeals.

Judicial review, §25-15-212.

Decisions, §25-15-210.

Ex parte communications,
§25-15-209.

Defined, §25-15-202.

Ex parte communications, §25-15-209.

Failure or refusal of agency to act.

Actions, §25-15-214.

Hearings, §§25-15-208, 25-15-213.

Judicial review, §25-15-212.

Oral argument, §25-15-210.

Procedure, §25-15-208.

Records, §25-15-208.

Agencies.

Defined, §25-15-202.

Appeals.

Adjudication.

Judicial review, §25-15-212.

Rules and regulations.

Judicial review of rules, §25-15-207.

Arkansas register.

Contents, §25-15-205.

Proceeds from sale.

Deposit, §25-15-205.

Report on publication, §25-15-205.

ADMINISTRATIVE PROCEDURE

—Cont'd

Arkansas register —Cont'd

Secretary of state.

Duties as to, §25-15-205.

Assessment coordination department.

Subject to act, §25-28-104.

Attorneys at law.

Adjudication.

Hearings.

Right to counsel, §25-15-213.

Stay of proceedings where party or attorney is member or employee of general assembly, §25-15-103.

Burden of proof.

Adjudication, §25-15-213.

Citation of act.

Short title, §25-15-201.

Contempt.

Adjudication.

Failure to respond to subpoena or take oath or respond as witness, §25-15-213.

Deaf persons.

Interpreters for the deaf, §25-15-102.

Declaratory judgments.

Rules and regulations.

Applicability of rule, §§25-15-206, 25-15-207.

Definitions, §25-15-202.**Emergencies.**

Rulemaking, §25-15-204.

General assembly.

Stay of proceedings in which party or attorney is member of employee of general assembly, §25-15-103.

Hearing impaired persons.

Interpreters for the deaf, §25-15-102.

Hearings.

Adjudication, §§25-15-208, 25-15-213.

Rules and regulations.

Adoption of rules, §25-15-204.

Interpreters.

Appointment, §25-15-101.

Deaf persons.

Interpreters for the deaf, §25-15-102.

Generally, §25-15-101.

Oath, §25-15-101.

Judicial notice.

Adjudication, §25-15-213.

Licenses.

Definitions, §25-15-202.

Proceedings as to, §25-15-211.

Revocation or suspension of licenses, §25-15-211.

Model rules, §25-15-215.**ADMINISTRATIVE PROCEDURE**

—Cont'd

Notice.

Adjudication, §25-15-208.

Licenses.

Proceedings as to, §25-15-211.

Rules and regulations.

Adoption, §25-15-204.

Oaths.

Interpreters, §25-15-101.

Parties.

General assembly.

Stay of proceedings where party or attorney is member or employee of general assembly, §25-15-103.

Penalties authorized as sanctions, §25-15-217.**Records.**

Adjudication, §25-15-208.

Review of laws for application to rules, §25-15-216.**Rules and regulations.**

Adoption of rules.

Procedure, §25-15-204.

Arkansas register, §25-15-205.

Declaratory orders as to applicability of rule, §25-15-206.

Definitions, §25-15-202.

Emergency rules, §25-15-204.

Failure or refusal of agency to act.

Actions, §25-15-214.

Judicial review of rules, §25-15-207.

Model rules, §25-15-215.

Notice.

Adoption of rules, §25-15-204.

Required rules, §25-15-203.

Sanctions authorized, §25-15-217.**Stays.**

General assembly.

Stay of proceedings where party or attorney is member or employee of general assembly, §25-15-103.

Subpoenas.

Adjudication, §25-15-213.

Power of boards and commissions, §25-15-104.

Title of act.

Short title, §25-15-201.

Witnesses.

Adjudication, §25-15-213.

ADOPTION.**Freedom of information.**

Records deemed not public records, §25-19-105.

Records.

Freedom of information.

Records deemed not public records, §25-19-105.

AFFIDAVITS.**State institutions.**

Claims.

Presenting of claims, §25-17-102.

AGE.**Local police and fire retirement system.**

Normal retirement age.

Defined, §24-10-102.

AGENCIES.**Administrative procedure.**

Definitions, §25-15-202.

Publication of opinions and orders,
§25-18-224.**AMBASSADOR'S CERTIFICATES,**
§25-16-405.**APPEALS.****Administrative procedure.**

Adjudication.

Judicial review, §25-15-212.

Rules and regulations.

Judicial review of rules, §25-15-207.

Boards and commissions.

Removal of members.

Review of removal orders.

Appeal from circuit court decisions,
§25-16-804.**Freedom of information act.**

Enforcement of provisions, §25-19-107.

Municipal corporations.

Firemen's relief and pension fund.

Appeals to circuit court, §24-11-815.

APPROPRIATIONS.**Auditor of state.**Unexpended balances not carried
forward, §25-16-515.

Warrants for payment of money.

No warrant drawn without
appropriation, §25-16-517.**Human services department.**

Developmental disabilities.

Disposition of funds received by
division of developmental
disabilities services, §25-10-114.

Direct services funds.

Disposition, §25-10-113.

Insurance premium tax, §24-11-810.**Interlocal cooperation, §25-20-107.****ARCHEOLOGICAL SURVEY.****Freedom of information.**

Site files and records.

Records deemed not public records,
§25-19-105.**Records.**

Freedom of information.

Site files and records.

Records deemed not public records,
§25-19-105.**ARKANSAS AMBASSADOR'S
CERTIFICATES, §25-16-405.****ARKANSAS DEAF AND HEARING
IMPAIRED
TELECOMMUNICATIONS
SERVICES CORPORATION,**
§§25-29-101 to 25-29-112.**ARKANSAS ELECTRONIC
RECORDS AND SIGNATURES
ACT, §§25-31-101 to 25-31-105.****ARKANSAS HERITAGE
DEPARTMENT.****Arkansas natural and cultural
heritage advisory committee.**
Generally, §25-3-104.**Budgets.**

Transfers into department.

Effect on budget, §25-3-103.

Construction and interpretation.

Liberal construction, §25-3-101.

Director of department.

Appointment, §25-3-102.

Duties, §25-3-102.

Established, §25-3-102.**Fees.**

Publications, seminars, etc., §25-3-105.

Funds.Publication development and resale
revolving fund, §25-3-106.**Heritage foundation.**Promotion and cooperation in
establishment, §25-3-108.

Uses of private funds, §25-3-108.

Legislative intent, §25-3-101.**Natural and cultural heritage
advisory committee.**

Generally, §25-3-104.

Organization of department,
§25-3-102.**Personnel of department, §25-3-102.****Printing.**Restriction on printing expenditures,
§25-3-107.**Publication.**Fees for publications, seminars, etc.,
§25-3-105.**Funds.**Publication, development and resale
revolving fund, §25-3-106.

Sales of publications.

Disposition of proceeds into
publication, development and
resale development fund,
§25-3-106.**Reports.**

Heritage foundation.

Amount and source of gifts, grants
and donations, §25-3-108.

ARKANSAS HERITAGE**DEPARTMENT —Cont'd**

Transfers into department, §25-3-103.

ARKANSAS HERITAGE**FOUNDATION.****Reports.**

Amount and source of gifts, grants and donations, §25-3-108.

ARKANSAS REGISTER, §25-15-205.

ARKANSAS REHABILITATION

SERVICES, §§25-30-201 to 25-30-205.

ARKANSAS TECH UNIVERSITY.**Board of trustees.**

Honorary boards of management.

General provisions, §§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

ARREST.**State institutions.**

Security officers.

Powers, §25-17-305.

ASSESSMENT COORDINATION

DEPARTMENT, §§25-28-101 to 25-28-107.

ASSESSMENTS.**Assessment coordination**

department, §§25-28-101 to 25-28-107.

Deaf and hearing impaired

telecommunications services corporation.

Assessment on local exchange service providers, §25-29-103.

ATHLETIC COMMISSION.

Subpoena powers, §25-15-104.

ATTACHMENT.

Local police and fire retirement system.

Exemption of benefit rights, §24-10-616.

ATTORNEY GENERAL.**Actions.**

Defaulting officers.

Suits against officers indebted to state, §25-16-709.

Assistant attorneys.

Employment, §25-16-709.

Failure to bring suit.

Employment of attorney by governor, §25-16-709.

Attorneys at law.

Employment of outside counsel, §25-16-702.

Funding restriction, §25-16-712.

ATTORNEY GENERAL —Cont'd**Attorneys at law —Cont'd**

Special counsel.

Disputes between attorney general and constitutional officer, §25-16-711.

Blind persons.

Division of state services for the blind.

Legal counsel, §25-10-206.

Compromise and settlement.

Money due state.

Collection, §25-16-708.

Constitutional officers.

Disputes between attorney general and constitutional officer.

Special counsel to resolve dispute.

Employment by constitutional officer authorized, §25-16-711.

Disputes between attorney general and constitutional officer.

Special counsel to resolve dispute may be employed by officer, §25-16-711.

Duties.

Supreme court.

Attendance, §25-16-704.

Employment of outside counsel,

§25-16-702.

Federal courts.

Representation of state interests in federal courts, §25-16-703.

Federal encroachment on state rights.

Deputy or assistant.

Appointment, §25-21-104.

Duties, §§25-21-101 to 25-21-103.

Investigations on request of senators or representatives, §25-21-103.

Membership in interstate organization.

Authorized, §25-21-105.

Study of proposed federal legislation, §25-21-102.

Finance.

Employment of outside legal counsel.

Restrictions, §25-16-712.

Forms.

Subpoenas, §25-16-705.

Freedom of information.

Unpublished memoranda, working papers, etc.

Records deemed not public records, §25-19-105.

General assembly.

Opinions of attorney general.

Giving to general assembly, §25-16-706.

Governor.

Opinions of attorney general.

Giving to governor, §25-16-706.

ATTORNEY GENERAL —Cont'd

Misdemeanors.

Subpoenas.

Failure of officer to serve or failure of witness to appear, §25-16-705.

Model rules of administrative procedure, §25-15-215.

Money due state.

Amounts to be certified to attorney general, §25-16-707.

Certification of amounts due, §25-16-707.

Penalty for violation, §25-16-707.

Collection.

Compromise and settlement, §25-16-708.

Conflict of laws.

Repeal of conflicting laws, §25-16-708.

Disposition of moneys collected, §25-16-708.

Special counsel.

Appointed, §25-16-708.

Compensation, §25-16-708.

Venue of suits, §25-16-708.

Penalties.

Certification of amounts due to state.

Violation of provisions, §25-16-707.

Oaths.

Administration of oaths, §25-16-705.

Opinions of attorney general.

General assembly.

Giving to general assembly, §25-16-706.

Giving to governor, §25-16-706.

Prosecuting attorneys.

Giving to prosecuting attorneys, §25-16-706.

Real property bought by state.

Examination of abstract, §25-16-706.

Penalties.

Money due state.

Certification of amount to attorney general, §25-16-707.

Subpoenas.

Failure of officer to serve or failure of witness to appear, §25-16-705.

Practice of law.

Private practice prohibited, §25-16-701.

Prosecuting attorneys.

Opinions of attorney general.

Giving opinion to prosecutor, §25-16-706.

Quo warranto.

Power to issue writ, §25-16-704.

ATTORNEY GENERAL —Cont'd

Records.

Freedom of information.

Unpublished memoranda, working papers, etc.

Records deemed not public records, §25-19-105.

Representation of state interests in federal courts, §25-16-703.

Salary, §25-16-101.

Service of process.

Subpoenas of attorney general, §25-16-705.

Special counsel.

Disputes between attorney general and constitutional officer.

Employment of special counsel, §25-16-711.

Money due state.

Collection, §25-16-708.

Suits against officers indebted to state.

Employment of assistant attorneys, §25-16-709.

State departments and agencies.

Representation of state agencies and officers, §25-16-702.

Employment of outside counsel, §25-16-702.

State of Arkansas.

Real property bought by state.

Examination of abstract, §25-16-706.

Representation of state interests in federal courts, §25-16-703.

Subpoenas.

Failure of witness to appear.

Citation, §25-16-705.

Penalty, §25-16-705.

Form, §25-16-705.

Power of attorney general, §25-16-705.

Service, §25-16-705.

Failure of officer to serve.

Penalty, §25-16-705.

Supreme court.

Attendance, §25-16-704.

Failure to attend.

Substitute appointed by court, §25-16-704.

Venue.

Money due state.

Collection.

Suits for funds due state, §25-16-708.

Witnesses.

Oaths.

Administration of oaths, §25-16-705.

Subpoenas, §25-16-705.

ATTORNEYS AT LAW.**Administrative procedure.**

Adjudication.

Hearings.

Right to counsel, §25-15-213.

Stay of proceedings where party or attorney is member or employee of general assembly, §25-15-103.

Attorney general.

Employment of outside counsel, §25-16-702.

Funding restrictions, §25-16-712.

Special counsel.

Disputes between attorney general and constitutional officer, §25-16-711.

Local police and fire retirement system.

Board of trustees.

Legal advisor of board.

Appointment of attorney at law or firm of attorneys, §24-10-204.

Municipal corporations.

Retirement benefits for city attorneys in first and second class cities, §24-12-120.

Practice of law.

Attorney general.

Private practice prohibited, §25-16-701.

AUCTIONS AND AUCTIONEERS.**Licenses.**

Board.

Subpoena powers, §25-15-104.

AUDITOR OF STATE.**Accounts and accounting.**

Certification of payments, §25-16-509.

Duties of auditors, §25-16-505.

Examination of books.

Joint legislative committee, §25-16-512.

Ex officio state accountant, §25-16-510.

Joint legislative committee to examine books, §25-16-512.

Preservation of account, §25-16-511.

Appropriations.

Unexpended balances not carried forward, §25-16-515.

Warrants for payment of money.

No warrant drawn without appropriation, §25-16-517.

Blanks for officer's commissions and teachers' licenses.

Furnishing, §25-16-508.

Possession by officer other than state auditor, §25-16-508.

Penalty, §25-16-508.

AUDITOR OF STATE —Cont'd**Bonds, surety.**

Amount, §25-16-502.

Approval by governor, §25-16-502.

Failure to give bond.

Vacancy in office, §25-16-502.

Filing with secretary of state, §25-16-502.

Warrants for payment of money.

Duplicate warrants, §25-16-519.

Review of bonding procedure, §25-16-519.

Checks.

Register of bank fund checks, §25-16-511.

Deputy.

Appointment, §25-16-504.

Powers, §25-16-504.

Duties, §§25-16-505, 25-16-510.

Letter book.

Keeping, §25-16-511.

Willful neglect or refusal to perform duty.

Penalty, §25-16-501.

Ex officio state accountant, §25-16-510.**Extortion.**

Penalty, §25-16-501.

Forms.

Warrants for payment of money, §25-16-516.

General assembly.

Joint committee to examine books, §25-16-512.

Report, §25-16-512.

Action on approving report, §25-16-512.

Unfavorable report.

Action on, §25-16-512.

Governor.

Reports to governor, §25-16-203.

Inspections.

Access to other offices, §25-16-506.

Letter book.

Duty to keep, §25-16-511.

Misdemeanors.

Violation of law by auditor, §25-16-501.

Warrants for payment of money.

Illegally issuing, §25-16-517.

Oaths.

Oath of office, §25-16-504.

Power to administer, §25-16-507.

Payments by auditor.

Certification of payments, §25-16-509.

Penalties.

Blanks for officer's commissions and teachers' licenses.

Possession by officer other than state auditor, §25-16-508.

AUDITOR OF STATE —Cont'd**Penalties —Cont'd**

Violation of law by auditor, §25-16-501.

Warrants for payment of money.

Illegally issuing, §25-16-517.

Powers, §25-16-504.**Records.**

Register of bank fund checks,
§25-16-511.

**Register of bank fund checks,
§25-16-511.**

Director of administration.

Transmission of documents and
information to auditor,
§25-16-511.

Form, §25-16-511.

Reports.

Biennial report of auditor, §25-16-513.

General assembly.

Joint committee to examine books,
§25-16-512.

Quarterly reports to governor.

Treasurer's accounts, §25-16-514.

Warrants for payment of money.

Report to treasurer of amount of
warrants drawn, §25-16-515.

Responsibility for acts, §25-16-504.**Salary, §25-16-101.****Seal of office, §25-16-503.****Teachers.**

Blanks for teachers' licenses,
§25-16-508.

Treasurer of state.

Warrants for payment of money.

Payment of state auditor's warrants,
§§25-16-607 to 25-16-609.

See TREASURER OF STATE.

Treasurer's receipts.

Destruction after five years,
§25-16-511.

Vacancy in office.

Failure to give bond, §25-16-502.

Vouchers.

Destruction after five years,
§25-16-511.

Preservation, §25-16-511.

Warrants for payment of money.

Appropriations.

No warrant drawn without
appropriation, §25-16-517.

Bonds, surety, §25-16-519.

Review of bonding procedure,
§25-16-519.

Drawing, §25-16-516.

Duplicate warrants.

Issuance, §25-16-519.

Review of bonding procedure,
§25-16-519.

AUDITOR OF STATE —Cont'd**Warrants for payment of money**

—Cont'd

Form, §25-16-516.

Illegal issuance.

Penalty, §25-16-517.

Interest.

Not to bear interest, §25-16-518.

Loss or destruction of warrants.

Duplicate warrants.

Issuance, §25-16-519.

Numbering warrants progressively,
§25-16-516.

Offset.

Use as offset prohibited, §25-16-518.

Payment of state auditor's warrants.

Treasurer of state, §§25-16-607 to
25-16-609.

See TREASURER OF STATE.

Register of warrants, §25-16-516.

Report to treasurer of amount of
warrants drawn, §25-16-515.

School purposes.

No warrant drawn on general
revenues for, §25-16-517.

State debt.

Warrants not received in payment of,
§25-16-518.

Treasurer of state.

Payment of state auditor's warrants,
§§25-16-607 to 25-16-609.

See TREASURER OF STATE.

AUDITS AND AUDITORS.**Deaf and hearing impaired
telecommunications services
corporation.**

Annual audit, §25-29-107.

Governor.

Transition funds, §25-16-205.

Interlocal cooperation.

Waterworks.

Report of activities, §25-20-321.

**Local police and fire retirement
system.**

Board of trustees.

Audit of records and accounts by
certified public accountants.

Arranging for, §24-10-204.

B**BANKRUPTCY AND INSOLVENCY.****Local police and fire retirement
system.**

Exemption of benefit rights,
§24-10-616.

BLIND PERSONS.**Attorney general.**

- Division of state services for the blind.
- Legal counsel, §25-10-206.

Definitions.

- Division of state services for the blind, §25-10-202.

Human services department.

- Division of state services for the blind.
- Assistance to other agencies, §25-10-204.

Attorney general.

- Legal counsel, §25-10-206.

Board, §25-10-205.**Creation, §25-10-201.****Definitions, §25-10-202.****Designated state agency, §25-10-204.****Exemptions from act, §25-10-203.****Fund established, §25-10-207.****Legal counsel, §25-10-206.****Powers and duties of division, §25-10-204.****Public policy, §25-10-201.****Supplemental insurance, §25-10-208.****Transfer of office for the blind and visually impaired, §25-10-204.****Information technology access,****§§25-26-201 to 25-26-206.****Actions, §25-26-206.****Assurance of nonvisual access, §25-26-203.****Definitions, §25-26-202.****Development and implementation, §25-26-205.****Findings, §25-26-201.****Implementation, §25-26-205.****Injunctions, §25-26-206.****Nonvisual access, §25-26-203.****Policy, §25-26-201.****Procurement requirements, §25-26-204.****School for the blind.****Board of trustees.**

- Honorary boards of management generally, §§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

BOARDS AND COMMISSIONS.**Administration of funds, §25-1-107.****Administrative procedure.**

- General provisions, §§25-15-101 to 25-15-214.

See ADMINISTRATIVE PROCEDURE.

Appeals.**Removal of members.****Review of removal orders.**

- Appeal from circuit court decisions, §25-16-804.

BOARDS AND COMMISSIONS**—Cont'd****Appointment of members.****Senate.**

- Confirmation of governor's appointments by senate, §25-2-109.

Blind persons.**Human services department.**

- Division of state services for the blind, §25-10-205.

Compensation.**Copies of subchapter.****Distribution, §25-16-908.****Effective date, §25-16-907.****Expense reimbursement, §25-16-902.****Limitations, §25-16-901.****Members of general assembly, §25-16-906.****Stipend.****Authorization for \$100, §25-16-905.****Authorization for \$60, §25-16-903.****Authorization for \$75, §25-16-904.****Salaried members, §25-16-906.****State employees, §25-16-906.****Evaluation of necessity, §25-1-106.****Expenses.****Reimbursement, §25-16-902.****Fund administration duties, §25-1-107.****General assembly.****Appointment of members.**

- Senatorial confirmation of members, §25-2-109.

Members of certain boards not to be members of assembly, §25-1-302.**Paper reduction, §§25-1-201 to 25-1-206.**

See PAPER REDUCTION.

Governor.**Removal of members.**

- General provisions, §25-16-804. See within this heading, "Removal of members."

Hearings.**Removal of members.****Review of removal orders.****Circuit court hearing, §25-16-804.****Honorary boards of management.**

- State institutions, §§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

Information network of Arkansas, §25-27-103.**Martin Luther King, Jr. commission, §§25-24-101 to 25-24-103.**

BOARDS AND COMMISSIONS

—Cont'd

Members of boards and commissions.

Appointment.

Congressional district appointments, §25-16-801.

Congressional district appointments, §25-16-801.

House of Representatives, §25-1-301.

Removal and replacement.

Generally, §25-16-804.

Good cause, §25-16-804.

Procedure, §25-16-804.

Special board member appointments, §25-16-805.

Senate, §25-1-301.

Terms.

Expiration.

No expiration between biennial general election and governor's swearing in, §25-16-803.

Mental health.

Office of minority mental health, §§25-10-122 to 25-10-133.

See HUMAN SERVICES DEPARTMENT.

Mission statements.

Filing, §25-1-105.

Office of minority mental health,

§§25-10-122 to 25-10-133.

See HUMAN SERVICES DEPARTMENT.

Open public meetings, §25-19-106.**Orders.**

Distribution, §25-18-224.

Paper reduction, §§25-1-201 to 25-1-206.

See PAPER REDUCTION.

Publication of opinions and orders, §25-18-224.**Removal of members.**

Good cause.

Defined, §25-16-804.

Removal by governor for, §25-16-804.

Senate.

Confirmation by senate, §25-16-804.

Hearings.

Review of removal orders.

Circuit court hearing, §25-16-804.

Orders of removal.

Delivery to member removed, §25-16-804.

Review, §25-16-804.

Written orders required, §25-16-804.

Reinstatement.

Court order, §25-16-804.

BOARDS AND COMMISSIONS

—Cont'd

Removal of members —Cont'd

Reinstatement —Cont'd

Effect on board or commission action, §25-16-804.

Replacement, §25-16-804.

Special board members, §25-16-805.

Review of removal orders.

Appeal from circuit court decisions, §25-16-804.

Hearing before circuit court, §25-16-804.

Petition, §25-16-804.

Special member appointments, §25-16-805.

Senatorial confirmation of members, §25-2-109.**Special board members.**

Appointments, §25-16-805.

State institutions.

Honorary boards of management, §§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

Summary of activities.

Filing, §25-1-105.

Terms of office.

Expiration.

Not to expire between biennial general election and governor's swearing in, §25-16-803.

BOND ISSUES.**Interlocal cooperation.**

Waterworks.

Bond issues for improvements, §§25-20-310 to 25-20-314.

BONDS, SURETY.**Secretary of state, §25-16-401.****BUDGETS.****Arkansas heritage department.**

Transfers into department.

Effect on budget, §25-3-103.

Human services department.

Director.

Duties as to budgeting, §25-10-111.

Paper reduction, §25-1-204.**BURDEN OF PROOF.****Administrative procedure.**

Adjudication, §25-15-213.

Municipal corporations.

Pension and relief fund for paid nonuniformed employees.

Applications for pension, §24-12-117.

C**CAREER OPPORTUNITIES.****Workforce education generally,**

§§25-30-101 to 25-30-109.

See WORKFORCE EDUCATION.

CHARITIES.**Repairs.**

- Damages to charitable institution.
- Board of trustees.
- Authorized to borrow money,
§25-17-103.

CHECKS.**Auditor of state.**

- Register of bank fund checks,
§25-16-511.

CHILD SUPPORT.**Finance and administration department.**

- Revenue division.
- Reports relating to child support enforcement program,
§25-10-118.

CIGARETTES AND TOBACCO PRODUCTS.**State departments and agencies.**

- Smoking.
- Development of smoking policy,
§25-1-102.

CIRCUIT COURTS.**Appeals.**

- Municipal corporations.
- Firemen's relief and pension fund.
- Appeals to circuit court,
§24-11-815.

Freedom of information act.

- Enforcement of provisions.
- Duties of circuit courts, §25-19-107.

Municipal corporations.

- Firemen's relief and pension fund.
- Appeals to circuit court, §24-11-815.

CLAIMS AGAINST THE STATE.**Warrants for payment of money.**

- Uncollectible state warrants or checks.
- Claims for reimbursement,
§25-16-609.
- Payment of claim, §25-16-609.
- Referral to general assembly,
§25-16-609.

CLERKS OF COURT.**Supreme court reports.**

- Circuit court clerks.
- Annual check of offices of clerk,
§25-18-213.
- Duties of clerks, §25-18-212.
- Missing books.
- Replacement by clerk, §25-18-214.

COMMERCE.**Freedom of information.**

- Advantage to competitors or bidders if files disclosed.
- Files deemed not public records,
§25-19-105.

COMMISSIONERS IN OTHER STATES.**Appointment, §25-16-204.****Governor.**

- Power to appoint, §25-16-204.

Oaths.

- Oath of office, §25-16-204.
- Power to administer oaths, §25-16-204.
- Validity of oaths administered by,
§25-16-204.

Powers, §25-16-204.**Validity of acts, §25-16-204.****COMPROMISE AND SETTLEMENT.****Attorney general.**

- Money due state.
- Collection, §25-16-708.

Public records.

- Litigation settlement agreements,
§§25-18-401 to 25-18-403.
- Disclosure requirements, §25-18-401.
- Inapplicability of subchapter,
§25-18-402.
- Violations as misdemeanors,
§25-18-403.

COMPUTERS.**Information systems, §§25-4-101 to 25-4-124.**

- See INFORMATION SYSTEMS.

Information technology access for the blind, §§25-26-201 to 25-26-206.

- See BLIND PERSONS.

Recycling and electronic solid waste.

- Accounting and administration of sales, §25-34-105.
- Agency-wide policies, §25-34-104.
- Definitions, §25-34-103.
- Donation of unsold surplus equipment,
§25-34-107.
- Electronic equipment recycling grants,
§25-34-110.
- Fund, §§25-34-109, 25-34-110.
- Grants, §25-34-110.
- Landfill ban, §25-34-111.
- Legislative findings, §25-34-102.
- Policies for disposal, §25-34-104.
- Sale of surplus equipment.
- Accounting and administration of sales, §25-34-105.
- Pricing, §25-34-106.
- Proceeds, §25-34-108.
- Unsold equipment, §25-34-107.
- Title of provisions, §25-34-101.
- Unsold surplus equipment, §25-34-107.

CONFLICT OF LAWS.**Deaf and hearing impaired telecommunications services corporation, §25-29-112.**

CONTEMPT.**Administrative procedure.**

Adjudication.

Failure to respond to subpoena or
take oath or respond as witness,
§25-15-213.

Freedom of information act.

Noncompliance with orders of court,
§25-19-107.

CONTRACTS.**Discrimination.**

Public contracts.

Antidiscrimination clause required,
§25-17-101.

Electronic transactions.

Legal recognition of electronic
contracts, §25-32-107.

Human resources commission.

Antidiscrimination clause required,
§25-17-101.

Information systems.

Generally, §25-4-114.

Interlocal cooperation.

Services from another agency,
§25-20-108.

Workforce education.

Authority to enter into, §25-30-108.

COPIES.**Public records.**

Facsimile copies.

Fee for facsimile copy, §25-18-103.

Reproduction of records generally,
§25-18-101.

Secretary of state.

Fees.

Facsimile copies of state records,
§25-18-103.

Official papers, §25-16-403.

Records.

Facsimile copies of state records.
Fee, §25-18-103.

CORPORATIONS.

**Deaf and hearing impaired
telecommunications services
corporation**, §§25-29-101 to
25-29-112.

CORRECTIONS.**Board of corrections.**

Honorary boards of management
generally, §§25-17-201 to
25-17-211.

See STATE INSTITUTIONS.

Department of correction.

Continued, §25-5-101.

Divisions, §25-5-101.

COSMETOLOGY.**Board of cosmetology.**

Subpoena powers, §25-15-104.

COUNSELORS.**Board of examiners in counseling.**

Subpoena powers, §25-15-104.

COUNTIES.**Boards and commissions.**

Meetings.

Open public meetings, §25-19-106.

Cooperation.

Interlocal cooperation, §§25-20-101 to
25-20-108.

See INTERLOCAL COOPERATION.

Governing bodies.

Open public meetings, §25-19-106.

Health.

County health care plan.

Participation by retired county
officials and employees,
§24-12-128.

Human services department.

County offices of human services,
§25-10-115.

Interlocal cooperation.

General provisions, §§25-20-101 to
25-20-108.

See INTERLOCAL COOPERATION.

Officers and employees.

Retirement.

County health care plan
participation, §24-12-128.

Open public meetings.

Boards and commissions, §25-19-106.

Governing bodies, §25-19-106.

COURTS.**Freedom of information.**

Documents protected from disclosure
by court order or rule.

Documents deemed not public
records, §25-19-105.

CULTURE.**Arkansas heritage department.**

General provisions, §§25-3-101 to
25-3-108.

See ARKANSAS HERITAGE
DEPARTMENT.

D**DAMAGES.**

Electronic records and signatures,
§25-31-105.

Interlocal cooperation.

Liability for damages under
agreements, §25-20-105.

DATA PROCESSING.

Information systems, §§25-4-101 to 25-4-124.

See INFORMATION SYSTEMS.

DEAF AND HEARING IMPAIRED TELECOMMUNICATIONS SERVICES CORPORATION, §§25-29-101 to 25-29-112.

DEAF PERSONS.

Administrative procedure.

Interpreters for the deaf, §25-15-102.

Arkansas deaf and hearing impaired telecommunications services corporation, §§25-29-101 to 25-29-112.

Publication.

State publications.

References to deaf persons, §25-18-222.

School for the deaf.

Board of trustees.

Honorary boards of management, §25-17-205.

Honorary boards of management, §25-17-205.

Telecommunications services.

Deaf and hearing impaired telecommunications services corporation, §§25-29-101 to 25-29-112.

DEATH.

Local police and fire retirement system.

Annuities.

Death of member in paid service, §24-10-608.

Death of member in volunteer service, §24-10-609.

Limitations on death annuities, §24-10-610.

Contributions.

Disposition of accumulated contributions, §24-10-613.

Municipal corporations.

Firemen's relief and pension fund. Benefits.

Death of active or retired member other than while employed outside department, §24-11-820.

Death of retirant or beneficiary, §24-11-822.

Pension and relief fund for paid nonuniformed employees.

Benefits, §24-12-117.

DEATH —Cont'd**Municipal corporations —Cont'd**

Policemen's pension and relief funds.

Benefits.

Death of active or retired member, §24-11-425.

DECEDENTS' ESTATES.

Firefighters' pension and relief fund, §24-11-822.

DECLARATORY JUDGMENTS.**Administrative procedure.**

Rules and regulations.

Applicability of rule, §§25-15-206, 25-15-207.

DEFINED TERMS.**Access.**

Information technology access for the blind, §25-26-202.

Accountant.

Local police and fire pension funds, §24-11-201.

Accumulated contributions.

Local police and fire retirement system, §24-10-102.

Actuarial equivalent.

Local police and fire retirement system, §24-10-102.

Actuary.

Local police and fire pension funds, §24-11-201.

Local police and fire retirement system, §24-10-102.

Adjournment sine die.

Administrative procedures, §25-15-103.

Adjudication.

Administrative procedures, §25-15-202.

Age.

Local police and fire retirement system, §24-10-102.

Agency.

Administrative procedures, §25-15-202.
Computer recycling and electronic solid waste, §25-34-103.

Agency CIO, §25-33-102.**Agreement.**

Electronic transactions, §25-32-102.

Annuity.

Local police and fire retirement system, §24-10-102.

Any administrative proceeding.

Interpreters for the deaf, §25-15-102.

Application.

Information systems, §25-4-103.

Automated transaction.

Electronic transactions, §25-32-102.

Beneficiary.

Local police and fire retirement system, §24-10-102.

DEFINED TERMS —Cont'd**Benefit program.**

Local police and fire retirement system, §24-10-102.

Blind.

Department of human services.
Division of state services for the blind, §25-10-202.

Blind or visually impaired individual.

Information technology access for the blind, §25-26-202.

Business.

Public records, §25-18-101.

CIO council.

Agency chief information officers, §25-33-102.

City.

Investment advisors, §24-12-201.

Computer.

Computer recycling and electronic solid waste, §25-34-103.

Computer program.

Electronic transactions, §25-32-102.

Consolidated waterworks system,
§25-20-307.**Contract.**

Electronic transactions, §25-32-102.

Core information technology infrastructure.

Agency chief information officers, §25-33-102.

Information systems, §25-4-103.

Covered employment.

Local police and fire retirement system, §24-10-102.

Covered entity.

Information technology access for the blind, §25-26-202.

Credited service.

Local police and fire retirement system, §24-10-102.

Custodian.

Freedom of information act, §25-19-103.

Demanufacturing.

Computer recycling and electronic solid waste, §25-34-103.

Dependent child.

Local police and fire retirement system, §24-10-102.

Disposal.

Computer recycling and electronic solid waste, §25-34-103.

Electronic.

Electronic transactions, §25-32-102.

Electronic agent.

Electronic transactions, §25-32-102.

DEFINED TERMS —Cont'd**Electronic record.**

Agency chief information officers, §25-33-102.

Electronic transactions, §25-32-102.

Electronics.

Computer recycling and electronic solid waste, §25-34-103.

Electronic signature.

Electronic records and signatures, §25-31-103.

Electronic transactions, §25-32-102.

Electronic signature verification company.

Electronic records and signatures, §25-31-103.

Employee.

Local police and fire retirement system, §24-10-102.

Employer.

Local police and fire retirement system, §24-10-102.

Enterprise project.

Agency chief information officers, §25-33-102.

Equipment.

Information systems, §25-4-103.

Executive CIO.

Agency chief information officers, §25-33-102.

Executive head.

University of Arkansas, §25-17-301.

Final average pay.

Local police and fire retirement system, §24-10-102.

Firefighter.

Local police and fire retirement system, §24-10-102.

Format.

Freedom of information act, §25-19-103.

Gateway system.

Information network, §25-27-102.

General assembly.

Local police and fire retirement system, §24-10-102.

General office space.

State agency smoking policies, §25-1-102.

Governmental agency.

Electronic transactions, §25-32-102.

Inflation index.

Local police and fire retirement system, §24-10-102.

Information.

Electronic transactions, §25-32-102.

Information processing.

Information systems, §25-4-103.

DEFINED TERMS —Cont'd**Information processing system.**

Electronic transactions, §25-32-102.

Information technology.

Agency chief information officers,
§25-33-102.

Information systems, §25-4-103.

Information technology access for the
blind, §25-26-202.

Information technology resources.

Agency chief information officers,
§25-33-102.

Information systems, §25-4-103.

Injured in the line of duty.

Local police and fire pension funds,
§24-11-433.

Institution.

Property of state institutions,
§25-17-301.

Investment advisor.

Local police and fire retirement
system, §24-10-402.

License.

Administrative procedures, §25-15-202.

Licensing.

Administrative procedures, §25-15-202.

Medium.

Freedom of information act,
§25-19-103.

Member.

Local police and fire retirement
system, §24-10-102.

Network infrastructure.

Information systems, §25-4-103.

Network manager.

Information network, §25-27-102.

Nonvisual.

Information technology access for the
blind, §25-26-202.

Normal retirement age.

Local police and fire retirement
system, §24-10-102.

Offender.

Administrative procedure, §25-15-211.

Oral interpreter.

Interpreters for the deaf, §25-15-102.

Order.

Administrative procedures, §25-15-202.

Other governmental entities.

Information systems, §25-4-103.

Paid nonuniformed employees.

Retirement and pensions.
Local officers and employees,
§24-12-101.

Paid service.

Local police and fire retirement
system, §24-10-102.

Paper reduction, §25-1-206.**DEFINED TERMS —Cont'd****Party.**

Administrative procedures, §25-15-202.

Pay.

Local police and fire retirement
system, §24-10-102.

Person.

Administrative procedures, §25-15-202.

Electronic records and signatures,
§25-31-103.

Electronic transactions, §25-32-102.

Plan.

Local police and fire pension funds,
§24-11-201.

**Planned community property
owners association.**

Local police and fire pension funds,
§24-11-811.

Police officer.

Local police and fire retirement
system, §24-10-102.

Political subdivisions.

Local police and fire retirement
system, §24-10-102.

Project.

Agency chief information officers,
§25-33-102.

Information systems, §25-4-103.

Property.

State institutions, §25-17-301.

Property under the control of.

State institutions, §25-17-301.

Public agency.

Interlocal cooperation act, §25-20-103.

Public information.

Information network, §25-27-102.

Public instrumentality.

Information systems, §25-4-103.

Public meetings.

Freedom of information act,
§25-19-103.

Public records.

Freedom of information act,
§25-19-103.

Qualified interpreter.

Administrative procedures.

Interpreters for the deaf, §25-15-102.

Record.

Electronic records and signatures,
§25-31-103.

Electronic transactions, §25-32-102.

Recycle.

Computer recycling and electronic
solid waste, §25-34-103.

Regular interest.

Local police and fire retirement
system, §24-10-102.

DEFINED TERMS —Cont'd**Related system.**

Local police and fire retirement system, §24-10-505.

Relief fund.

Local police and fire retirement system, §24-10-102.

Retirant.

Local police and fire retirement system, §24-10-102.

Reuse.

Computer recycling and electronic solid waste, §25-34-103.

Rules.

Administrative procedures, §25-15-202.

Salary.

Local police and fire pension funds.
Additional benefits for certain fire fighters hired prior to January 1, 1983, §24-11-826.
Additional benefits for certain officers hired prior to January 1, 1983, §24-11-432.
Disability retirement benefits, §§24-11-423, 24-11-819.
Voluntary retirement benefits, §§24-11-422, 24-11-818.

Security procedure.

Electronic transactions, §25-32-102.

Smoking.

State agency smoking policies, §25-1-102.

Social security.

Local police and fire retirement system, §24-10-102.

Social security primary benefit.

Local police and fire retirement system, §24-10-102.

State.

Interlocal cooperation act, §25-20-103.

State agency.

Agency chief information officers, §25-33-102.
Electronic transactions, §25-32-102.
Information systems, §25-4-103.
Smoking policies, §25-1-102.

State-assisted organization.

Information technology access for the blind, §25-26-202.

State of Arkansas shared technical architecture.

Information systems, §25-4-103.

Surplus computer equipment.

Computer recycling and electronic solid waste, §25-34-103.

Telecommunications.

Information systems, §25-4-103.

DEFINED TERMS —Cont'd**Telecommunications —Cont'd**

Information technology access for the blind, §25-26-202.

The amount of the benefit otherwise payable.

Local police and fire retirement system.
Redetermination of benefits, §24-10-612.

Transaction.

Electronic transactions, §25-32-102.

Transferable record.

Electronic transactions, §25-32-116.

Transition funds.

Governor, §25-16-205.

User association.

Information network, §25-27-102.

Visually handicapped.

Department of human services.
Division of state services for the blind, §25-10-202.

Volunteer service.

Local police and fire retirement system, §24-10-102.

DEPARTMENT OF WORKFORCE

EDUCATION, §§25-30-101 to 25-30-109.

DEPOSITS.**Department of finance and administration.**

Purchasing division.
Proceeds from transactions, §25-8-106.

Municipal corporations.

Pension and relief fund for paid nonuniformed employees.
Money deposited in banks, §24-12-108.
Policemen's pension and relief funds, §24-11-409.
Board to deposit money in bank, §24-11-409.

DEVISES.**Municipal corporations.**

Firemen's relief and pension fund.
Acceptance of devises, §24-11-803.

DISABLED PERSONS.**Municipal corporations.**

Pension and relief fund for paid nonuniformed employees, §§24-12-101 to 24-12-118.
See MUNICIPAL CORPORATIONS.

DISCRIMINATION.**Contracts.**

Public contracts.
Antidiscrimination clause required, §25-17-101.

DISCRIMINATION —Cont'd

Martin Luther King, Jr. commission.
Duties, §25-24-102.

**DIVISION OF REHABILITATION
SERVICES, §§25-30-201 to
25-30-205.**

**DOCTOR MARTIN LUTHER KING,
JR.**

Commission, §§25-24-101, 25-24-102.

DOMESTIC VIOLENCE.**Funds.**

Advisory bodies, fund administration
duties, §25-1-107.

State agency designated to administer,
§25-1-107.

DRUNKENNESS.**Municipal corporations.**

Firemen's relief and pension fund.
Cessation of payments, §24-11-821.

E**ECONOMIC DEVELOPMENT.**

Commission, §25-11-102.

Creation, §25-11-102.

ECONOMIC DEVELOPMENT

COMMISSION, §25-11-102.

EDUCATION.**County boards of education.**

Meetings.

Open public meetings, §25-19-106.

Open public meetings, §25-19-106.

Department of education.

Director, §25-6-102.

Organization, §25-6-102.

State board of education.

Authority and responsibility,
§25-6-101.

Meetings.

Open public meetings.

School districts and county boards of
education, §25-19-106.

Open public meetings.

County boards of education,
§25-19-106.

School districts, §25-19-106.

School districts.

Open public meetings, §25-19-106.

State board of education.

Department of education.

Composition of department,
§25-6-102.

Workforce education.

Coordination with board, §25-30-104.

EDUCATION —Cont'd

Workforce education generally,
§§25-30-101 to 25-30-109.

See WORKFORCE EDUCATION.

ELECTIONS.**Municipal corporations.**

Firemen's relief and pension fund.
Taxation.

Levy of tax to pay pensions,
§24-11-812.

**State board of election
commissioners.**

Subpoena powers, §25-15-104.

**ELECTRONIC RECORDS AND
SIGNATURES, §§25-31-101 to
25-31-105.**

Acceptance of, or agreement to,
§25-31-104.

Construction, §25-31-102.

Definitions, §25-31-103.

Electronic transactions generally,
§§25-32-101 to 25-32-120.

Short title, §25-31-101.

Unauthorized use, §25-31-105.

ELECTRONIC TRANSACTIONS,
§§25-32-101 to 25-32-120.

Agreements.

Variation by agreement, §25-32-105.

Applicability of provisions,
§§25-32-103, 25-32-105.

Prospective applicability, §25-32-104.

Automated transactions, §25-32-114.

Citation of act, §25-32-101.

Construction of provisions,
§25-32-106.

Contracts.

Legal recognition of electronic
contracts, §25-32-107.

Definitions, §25-32-102.

Transferable record, §25-32-116.

Evidence.

Admissibility of electronic records or
signatures, §25-32-113.

Governmental agencies.

Records.

Acceptance and distribution
electronic records, §25-32-118.

Interoperability, §25-32-119.

Creation and retention of electronic
records and conversion of written
records, §25-32-117.

**Legal recognition of electronic
records, signatures and
contracts, §25-32-107.**

Records.

Acknowledgment, §25-32-111.

ELECTRONIC TRANSACTIONS

—Cont'd

Records —Cont'd

Attribution and effect of electronic record, §25-32-109.

Change or error in electronic record.

Effect, §25-32-110.

Evidence.

Admissibility of electronic records, §25-32-113.

Governmental agencies.

Acceptance and distribution electronic records, §25-32-118.

Interoperability, §25-32-119.

Creation and retention of electronic records and conversion of written records, §25-32-117.

Legal recognition of electronic records, §25-32-107.

Notarization, §25-32-111.

Originals, §25-32-112.

Presentation of records, §25-32-108.

Receipt of electronic record.

Time and place of sending and receipt, §25-32-115.

Retention of electronic records, §25-32-112.

Sending electronic record.

Time and place of sending and receipt, §25-32-115.

Transferable record, §25-32-116.

Scope of provisions, §§25-32-103, 25-32-105.

Prospective applicability, §25-32-104.

Severability of provisions, §25-32-120.**Signatures.**

Acknowledgment, §25-32-111.

Attribution and effect of electronic signature, §25-32-109.

Evidence.

Admissibility of electronic signatures, §25-32-113.

Legal recognition of electronic signatures, §25-32-107.

Notarization, §25-32-111.

Title of act, §25-32-101.**Writing.**

Provision of information in writing, §25-32-108.

EMBALMERS AND FUNERAL DIRECTORS.**Board of embalmers and funeral directors.**

Subpoena powers, §25-15-104.

EMERGENCIES.**Administrative procedure.**

Rulemaking, §25-15-204.

EMERGENCIES —Cont'd**Municipal corporations.**

Firemen's relief and pension fund.

Service of retired firemen, §24-11-819.

Seat of government.

Emergency temporary location.

Applicability of provisions, §25-1-101.

Generally, §25-1-101.

Validation of acts performed at, §25-1-101.

EMINENT DOMAIN.**Interlocal cooperation.**

Waterworks, §25-20-309.

EPIDEMICS.**Municipal corporations.**

Firemen's relief and pension fund.

Service of retired firemen, §24-11-819.

EVIDENCE.**Electronic transactions.**

Admissibility of electronic records or signatures, §25-32-113.

EXECUTIONS.**Local police and fire retirement system.**

Exemption of benefit rights, §24-10-616.

EXTORTION.**Auditor of state.**

Penalty, §25-16-501.

Treasurer of state.

Penalty, §25-16-601.

EXTRAORDINARY WRITS.**Quo warranto.**

Attorney general.

Power to issue, §25-16-704.

F**FEDERAL AID.****Executive department.**

Reorganization to meet federal program requirements, §25-16-201.

Finance and administration department.

Duties of department as to, §25-8-105.

Governor.

Reorganization of agencies to meet federal program requirements, §25-16-201.

FEDERAL ENCROACHMENT ON STATE RIGHTS.**Attorney general.**

Deputy or assistant.

Appointment, §25-21-104.

Duties, §§25-21-101 to 25-21-103.

FEDERAL ENCROACHMENT ON STATE RIGHTS —Cont'd

Attorney general —Cont'd

- Investigations on request of senators or representatives, §25-21-103.
- Membership in interstate organization. Authorized, §25-21-105.
- Study of proposed federal legislation, §25-21-102.

Investigations.

- Attorney general. Request of senators or representatives, §25-21-103.

Title of law, §25-21-106.

FEES.

Arkansas heritage department.

- Publications, seminars, etc., §25-3-105.

Finance and administration department.

- Redistributing property between state agencies.
- Fee schedule, §25-8-106.

Freedom of information.

- Attorneys' fees, §25-19-107.
- Electronic information requests, §25-19-109.

Human services department.

- Charges for institutional services, §25-10-110.

Interlocal cooperation.

- Waterworks.
- Franchise fee payments to agencies, §25-20-319.

Records.

- Reproduction of public records.
- Facsimile copy fee, §25-18-103.

FINANCE.

Department of finance and administration, §§25-8-101 to 25-8-108.

- See FINANCE AND ADMINISTRATION DEPARTMENT.

Finance and administration department, §§25-8-101 to 25-8-108.

- See FINANCE AND ADMINISTRATION DEPARTMENT.

State departments and agencies.

- Department of finance and administration, §§25-8-101 to 25-8-108.

- See FINANCE AND ADMINISTRATION DEPARTMENT.

FINANCE AND ADMINISTRATION DEPARTMENT.

Budget and accounting division.

- Director, §25-8-104.

FINANCE AND ADMINISTRATION DEPARTMENT —Cont'd

Child support enforcement office, §25-8-107.

Contract labor.

- Revenue division, §25-8-107.

Deposits.

- Purchasing division.
- Proceeds from transactions, §25-8-106.

Director.

- Appointment, §25-8-101.
- Authority of director, §25-8-102.
- Rules and regulations.
- Adoption, §25-8-102.
- Marketing and redistribution section of purchasing division, §25-8-106.

Divisions, §25-8-101.

- Budget and accounting division, §25-8-104.

Directors.

- Budget and accounting division, §25-8-104.
- Purchasing division, §25-8-106.

Established, §25-8-101.

Federal aid.

- Duties of department as to, §25-8-105.

Fees.

- Redistributing property between state agencies.
- Fee schedule, §25-8-106.

Inadequate funds.

- Loans to marketing and redistribution section, §25-8-109.

Information and data.

- State departments and agencies to provide, §25-1-104.

Inventory of state equipment.

- Purchasing division, §25-8-106.

Office of child support enforcement, §25-8-107.

Office of personnel management.

- Creation, §25-8-103.
- Personnel director.
- Head of office, §25-8-103.

Organization of department, §25-8-101.

Personal property.

- Marketing and redistribution of state personal property, §25-8-106.

Personnel, §25-8-101.

Purchasing division.

- Inventory of state equipment, §25-8-106.
- Marketing and redistribution section.
- Applicability of provisions, §25-8-106.
- Creation, §25-8-106.

FINANCE AND ADMINISTRATION**DEPARTMENT —Cont'd****Purchasing division —Cont'd**

Marketing and redistribution section
—Cont'd

Purpose of provisions, §25-8-106.

Records, §25-8-106.

Rules and regulations.

Promulgation by director of
department, §25-8-106.

Services to state agencies, §25-8-106.

Charges, §25-8-106.

Proceeds from transactions, §25-8-106.

Records.

Access to agency records, §25-1-104.

Reports.

Child support enforcement, §25-10-118.

Revenue division.

Child support enforcement.

Reports, §25-10-118.

Contract labor, §25-8-107.

Rules and regulations.

Authority of director, §25-8-102.

Marketing and redistribution section of
purchasing division, §25-8-106.

Support and maintenance.

Revenue division.

Child support enforcement program
reports, §25-10-118.

United States.

Federal aid programs.

Duties of department as to,
§25-8-105.

FINES.**Freedom of information.**

Negligent violations, §25-19-104.

Public officers and employees.

Failure to appear as witness,
§25-16-705.

Settlement agreement violations,
§25-18-403.**State institutions boards.**

Oath violations, §25-17-207.

FIRE DEPARTMENTS.**Insurance.**

Firemen's relief and pension fund.

Group insurance.

Premiums paid from relief and
pension funds, §24-11-824.

Municipal corporations.

Firemen's relief and pension fund,
§§24-11-801 to 24-11-833.

See MUNICIPAL CORPORATIONS.

FIREFIGHTERS.**Fire departments.**

Local police and fire retirement
system, §§24-10-101 to 24-10-616.

See LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.

FIREFIGHTERS —Cont'd**Firefighters' pension and relief fund,**
§24-11-822.**Income withholding.**

Firemen's relief and pension funds.

Members' contributions, §24-11-816.

Local police and fire retirement
system.

Members' contributions, §24-10-404.

**FIREMEN'S RELIEF AND PENSION
FUND.****Fire protection districts, §24-11-824.****FIRE PROTECTION DISTRICTS.****Commissioners.**

Firemen's relief and pension fund.

Establishment of fund, §24-11-824.

Firemen's relief and pension fund.

Authority to establish, §24-11-824.

Beneficiaries, §24-11-824.

Board of trustees, §24-11-824.

Commissioners.

Establishment of fund, §24-11-824.

Deductions from salaries, §24-11-824.

Donations, §24-11-824.

Eligibility to establish, §24-11-824.

Gifts, §24-11-824.

Insurance.

Group insurance.

Premiums paid from relief and
pension funds, §24-11-824.

Limitations of operation, §24-11-824.

Merger of district with city or town.

Relief and pension funds merged.

Effect on board of trustees,
§24-11-824.

Procedure for operation, §24-11-824.

Resignation or discharge of employees.

Money returned from fund to
employee upon resignation or
discharge, §24-11-824.

Source of funds, §24-11-824.

Gifts.

Firemen's relief and pension fund,
§24-11-824.

Insurance.

Firemen's relief and pension fund.

Group insurance.

Premiums paid from relief and
pension funds, §24-11-824.

Merger.

City or town merged with district.

Firemen's relief and pension funds
merged.

Effect on board of trustees,
§24-11-824.

FIRES AND FIRE PREVENTION.**Firemen's relief and pension fund.**

Retired member returning to active status, §24-11-827.

Funds.

Firemen's relief and pension fund.

Fire protection districts, §24-11-824.

Retirement.

Local police and fire retirement system, §§24-10-101 to 24-10-616.

See LOCAL POLICE AND FIRE RETIREMENT SYSTEM.

FORMS.**Attorney general.**

Subpoenas, §25-16-705.

Auditor of state.

Warrants for payment of money, §25-16-516.

Subpoenas.

Attorney general, §25-16-705.

Warrants for payment of money.

Auditor's warrant, §25-16-516.

FRAUD.**Local police and fire retirement system.**

Exemption of benefit rights.

Exception, §24-10-616.

Penalty, §24-10-105.

FREEDOM OF INFORMATION.**Adoption.**

Records deemed not public records, §25-19-105.

Agency information for public guidance, §25-19-108.**Appeals.**

Enforcement of provisions, §25-19-107.

Archeological survey.

Site files and records.

Records deemed not public records, §25-19-105.

Attorney general.

Unpublished memoranda, working papers, etc.

Records deemed not public records, §25-19-105.

Blind persons.

Information technology access for the blind, §§25-26-201 to 25-26-206.

See BLIND PERSONS.

Circuit courts.

Enforcement of provisions.

Duties of circuit courts, §25-19-107.

Citation of act.

Short title, §25-19-101.

Contempt.

Noncompliance with orders of court, §25-19-107.

FREEDOM OF INFORMATION

—Cont'd

Copying requests, §25-19-105.**Courts.**

Circuit courts.

Enforcement of provisions, §25-19-107.

Documents protected from disclosure by court order or rule.

Documents deemed not public records, §25-19-105.

Definitions, §25-19-103.**Electronic information requests, §25-19-109.****Enforcement of provisions, §25-19-107.****Fees.**

Attorneys' fees, §25-19-107.

Electronic information requests, §25-19-109.

General assembly.

Unpublished memoranda, working papers, etc.

Records deemed not public records, §25-19-105.

Governor.

Unpublished memoranda, working papers, etc.

Records deemed not public records, §25-19-105.

Grand jury.

Minutes of proceedings.

Minutes deemed not public records, §25-19-105.

Historical preservation program.

Site files and records.

Records deemed not public records, §25-19-105.

Income tax.

State income tax records.

Records deemed not public records, §25-19-105.

Judges.

Opinions and decisions.

Unpublished drafts of opinions and decisions.

Deemed not public records, §25-19-105.

Law enforcement officers.

Investigations.

Undisclosed investigations of suspected criminal activity.

Records deemed not public records, §25-19-105.

Legislative declaration, §25-19-102.**Medical records.**

Records deemed not public records, §25-19-105.

FREEDOM OF INFORMATION

—Cont'd

Meetings.

Public meetings.

Defined, §25-19-103.

Executive sessions.

Restrictions on, §25-19-106.

Open meetings, §25-19-106.

Misdemeanors.

Violations of provisions, §25-19-104.

Notice of request for records,
§25-19-105.**Penalties.**

Violations of provisions, §25-19-104.

Policy of state.

Declaration, §25-19-102.

Public guidance, information for,
§25-19-108.**Public officers and employees.**

Personnel records disclosure.

Invasion of personal privacy.

Availability of records to employee
or designated representative,
§25-19-105.Records deemed not public records,
§25-19-105.**Records.**

Public records.

Defined, §25-19-103.

Examination and copying,
§25-19-105.**Requests for copies of records,**
§25-19-105.**Supreme court.**

Justices.

Unpublished memoranda, working
papers, etc.Records deemed not public records,
§25-19-105.**Title of act.**

Short title, §25-19-101.

Trade and commerce.Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**Trade secrets.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**Unfair competition and trade
practices.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**FREEDOM OF INFORMATION**

—Cont'd

Universities and colleges.

Scholastic records.

Records deemed not public records,
§25-19-105.**Violations of provisions.**

Penalties, §25-19-104.

FUNDS.**Arkansas heritage department.**Publication, development and resale
revolving fund, §25-3-106.**Firemen's relief and pension fund.**

Fire protection districts, §24-11-824.

Generally, §24-11-824.

Municipal corporations, §§24-11-801 to
24-11-833.

See MUNICIPAL CORPORATIONS.

Fire protection districts.Firemen's relief and pension fund,
§24-11-824.**Fires and fire prevention.**

Firemen's relief and pension fund.

Fire protection districts, §24-11-824.

Municipal corporations, §§24-11-801
to 24-11-833.

See MUNICIPAL

CORPORATIONS.

Governor.

Transition funds, §25-16-205.

Information systems.Department of information systems
revolving fund, §25-4-121.Information technology reserve fund,
§25-4-123.**FUNERALS.****Municipal corporations.**Pension and relief fund for paid
nonuniformed employees.

Funeral expenses, §24-12-118.

Policemen's pension and relief funds.

Funeral expenses of policemen,
§24-11-430.**G****GARNISHMENT.****Local police and fire retirement
system.**Exemption of benefit rights,
§24-10-616.**GENERAL ASSEMBLY.****Acts of general assembly.**

Certification, §25-18-205.

Distribution, §25-18-206.

Index, §25-18-205.

GENERAL ASSEMBLY —Cont'd
Acts of general assembly —Cont'd
 Printing, §25-18-205.

Administrative procedure.

Stay of proceedings in which party or attorney is member or employee of general assembly, §25-15-103.

Attorney general.

Opinions of attorney general.
 Giving to general assembly,
 §25-16-706.

Auditor of state.

Joint committee to examine books,
 §25-16-512.
 Report, §25-16-512.
 Action on approving report,
 §25-16-512.
 Unfavorable report.
 Action on, §25-16-512.

Boards and commissions.

Paper reduction, §§25-1-201 to
 25-1-206.
 See PAPER REDUCTION.
 Senate.
 Appointment of members.
 Confirmation of governor's
 appointment by senate,
 §25-2-109.

Executive department.

Reorganization to meet federal
 program requirements.
 Approval by general assembly,
 §25-16-201.

Freedom of information.

Unpublished memoranda, working
 papers, etc.
 Records deemed not public records,
 §25-19-105.

House of representatives.

Boards and commissions.
 Eligibility for membership,
 §25-1-301.

Judges.

Acts of general assembly.
 Distribution to judges.
 Free distribution, §25-18-206.
 Municipal judges, §§25-18-206,
 25-18-207.

Justices of the peace.

Acts of general assembly.
 Distribution to justices of the peace,
 §25-18-206.

**Paper reduction, §§25-1-201 to
 25-1-206.**

See PAPER REDUCTION.

Publication.

Acts of legislature.
 Certificate of correctness, §25-18-205.

GENERAL ASSEMBLY —Cont'd
Publication —Cont'd

Acts of legislature —Cont'd

Compensation for copying and
 indexing acts, §25-18-205.
 Delivery by officers to successors,
 §25-18-207.

Distribution.

Counties, §25-18-206.
 Free distribution to certain officers,
 §25-18-206.
 Justices of the peace, §25-18-206.
 Library of congress, §25-18-220.
 Municipal judges, §§25-18-206,
 25-18-207.

Exchange of books with other states
 and countries, §25-18-220.

Index to acts, §25-18-205.

Lost or destroyed books.

Replacement, §25-18-208.

Penalties.

Failure to deliver books to
 successors, §25-18-207.
 Municipal judges, §25-18-207.
 Printing, §25-18-205.
 Sale price, §25-18-209.

Digest.

Mansfield's digest.
 Sale price, §25-18-209.

Journal of proceedings of legislature.

Time for publication and
 distribution, §25-18-204.

**Law Library Association, Inc., Shelby
 County, Tennessee.**

Distribution of proceedings of
 legislature to, §25-18-221.

**Messages, reports and other
 documents ordered to be printed by
 legislature.**

Covers, §25-18-203.

Number of copies, §25-18-202.

Title pages, §25-18-203.

Records.

Freedom of information.

Unpublished memoranda, working
 papers, etc.
 Records deemed not public records,
 §25-19-105.

Secretary of state.

Acts of general assembly.
 Exchange of books with federal, state
 and foreign entities, §25-18-220.

Records.

Custodian of records of general
 assembly, §25-16-403.

GENERAL ASSEMBLY —Cont'd**Senate.**

- Boards and commissions.
- Appointment of members.
- Eligibility for membership,
§25-1-301.
- Senatorial confirmation of members,
§25-2-109.
- Lieutenant governor.
- Custodian of senate chamber and
records, §25-16-301.

Treasurer of state.

- Joint committee to examine books,
§25-16-615.
- Report, §25-16-615.
- Approval.
- Action on approving report,
§25-16-615.
- Unfavorable report.
- Action on, §25-16-615.

GIFTS.**Fire protection districts.**

- Firemen's relief and pension fund,
§24-11-824.

GOVERNOR.**Attorney general.**

- Opinions of attorney general.
- Giving to governor, §25-16-706.

Auditor of state.

- Reports to governor, §25-16-203.

Audits and auditors.

- Transition funds, §25-16-205.

Boards and commissions.

- Removal of members.
- General provisions, §25-16-804.
- Special board member appointments,
§25-16-805.

Commissioners in other states.

- Power to appoint, §25-16-204.

Definitions.

- Transition fund, §25-16-205.

Federal aid.

- Reorganization of agencies to meet
federal program requirements,
§25-16-201.

Freedom of information.

- Unpublished memoranda, working
papers, etc.
- Records deemed not public records,
§25-19-105.

Funds.

- Transition fund, §25-16-205.

General assembly.

- Messages to general assembly.
- Printing and distribution of copies,
§25-18-204.

GOVERNOR —Cont'd**Message to general assembly.**

- Reports of state auditor and state
treasurer.
- Inclusion in message to general
assembly, §25-16-203.

Records.

- Freedom of information.
- Unpublished memoranda, working
papers, etc.
- Records deemed not public records,
§25-19-105.

Reports.

- State auditor to report to governor,
§25-16-203.
- State treasurer.
- Report to governor, §25-16-203.

Salary, §25-16-101.

- Transition funds.
- Not to be used to pay salary,
§25-16-205.

Seat of government.

- Emergency temporary location.
- Declaration by proclamation,
§25-1-101.

State departments and agencies.

- Reorganization of agencies to meet
federal program requirements,
§25-16-201.

State treasurer.

- Reports to governor, §25-16-203.

Transition funds.

- Applicability of act, §25-16-205.
- Audit, §25-16-205.
- Defined, §25-16-205.
- Expenditures.
- Direct expenses of governor-elect.
- Expenditures limited to,
§25-16-205.
- Guidelines on expenditure,
§25-16-205.
- Limited to direct expenses of
governor-elect, §25-16-205.
- Not to be used to pay salary,
§25-16-205.
- Guidelines on expenditures,
§25-16-205.
- Not to be used to pay salary,
§25-16-205.
- Salary.
- Funds not to be used to pay salary,
§25-16-205.

GRAND JURY.**Freedom of information.**

- Minutes of proceedings.
- Minutes deemed not public records,
§25-19-105.

GRAND JURY —Cont'd
Minutes of proceedings.

Freedom of information.
Minutes deemed not public records,
§25-19-105.

GRANTS.**State departments and agencies.**

Reports to legislative council,
§25-1-108.

H**HEALING ARTS.****Licensing boards.**

Exemption from provisions, §25-2-102.

HEALTH.**Department of health.**

Alcohol and drug abuse.
Prevention division, §25-9-102.
Community alcohol safety program,
§25-9-106.
County health unit administrator.
Compensation, §25-9-105.
Creation, §25-9-101.
Divisions, §25-9-101.
Alcohol and drug abuse, §25-9-102.

Extra salaries.

Payment to medical doctors,
§25-9-104.

Home health on-call and visit pay,
§25-9-106.

Office of oral health, §25-9-101.

Patient care providers.

Payment of wages and other benefits
to, §25-9-103.

Transfers to department, §25-9-101.

Director of department of health,
§25-9-101.**HEARINGS.****Administrative procedure.**

Adjudication, §§25-15-208, 25-15-213.
Rules and regulations.
Adoption of rules, §25-15-204.

Boards and commissions.

Removal of members.
Review of removal orders.
Circuit court hearing, §25-16-804.

**HEATING, VENTILATION, AIR
CONDITIONING AND
REFRIGERATION WORKERS.****Board.**

Subpoena powers, §25-15-104.

HEIRS.**Firefighters' pension and relief fund,**
§24-11-822.**HENDERSON STATE UNIVERSITY.****Board of trustees.**

Honorary boards of management,
§§25-17-201 to 25-17-211.
See STATE INSTITUTIONS.

HERITAGE FOUNDATION.**Department of Arkansas heritage.**

Promotion and cooperation in
establishment of foundation,
§25-3-108.

HERITAGE OF ARKANSAS.**Department of Arkansas heritage,**

§§25-3-101 to 25-3-108.
See ARKANSAS HERITAGE
DEPARTMENT.

HIGHWAYS.**State highway and transportation
department.**

Community alcohol safety program,
§25-9-106.

**HISTORICAL PRESERVATION
PROGRAM.****Freedom of information.**

Site files and records.
Records deemed not public records,
§25-19-105.

Records.

Freedom of information.
Site files and records.
Records deemed not public records,
§25-19-105.

HUMAN SERVICES DEPARTMENT.**Administrative services division,**
§25-10-102.**Admission policies.**

Development, §25-10-109.

Advisory committees.

Director may establish, §25-10-116.

Aging and adult services.

Division of, §25-10-102.

Alcohol and drug abuse prevention.

Division of.
Transfer, §25-9-102.

Appropriations.

Developmental disabilities.
Disposition of funds received by
division of developmental
disabilities services, §25-10-114.
Direct services funds.
Disposition, §25-10-113.

Blind persons.

Division of state services for the blind,
§25-10-102.
Assistance to other agencies,
§25-10-204.

HUMAN SERVICES DEPARTMENT

—Cont'd

Blind persons —Cont'dDivision of state services for the blind
—Cont'd

Attorney general.

Legal counsel, §25-10-206.

Board of the division of state services
for the blind.

Generally, §25-10-205.

Definitions, §25-10-202.

Designated state agency, §25-10-204.

Establishment, §25-10-201.

Exemptions, §25-10-203.

Fund established, §25-10-207.

Powers and duties of division,
§25-10-204.

Public policy, §25-10-201.

Supplemental insurance, §25-10-208.

Transfer of office for the blind and
visually impaired, §25-10-204.**Budgets.**

Director.

Duties as to budgeting, §25-10-111.

Certification of state vouchers.Designated disbursing officers,
§25-10-119.**Children and family services.**

Division of, §25-10-102.

Committees.

Advisory committees.

Director may establish, §25-10-116.

Community action programs.

Grants-in-aid, §25-10-126.

**Community-based residential
programs, §§25-10-134, 25-10-135.****Coordination of programs,
procedures, etc., of department
and institutional boards,
§25-10-108.****Counties.**County offices of human services,
§25-10-115.**County operations.**

Division of, §25-10-102.

Local and donated funds.

Obtaining federal matching funds,
§25-10-132.**Creation, §25-10-101.****Developmental disabilities.**

Admission policies.

Development by department,
§25-10-109.Board of developmental disabilities
services.Operation within department of
human services, §25-10-104.**HUMAN SERVICES DEPARTMENT**

—Cont'd

Developmental disabilities —Cont'dCharges for institutional services,
§25-10-110.Division of rehabilitative services,
§25-10-102.Disposition of funds received by
division, §25-10-114.**Director.**

Advisory committees.

Establishment by director
authorized, §25-10-116.

Budget coordination, §25-10-111.

Coordination of programs, procedures,
etc., of department and
institutional boards, §25-10-108.

County offices of human services.

Establishment by director,
§25-10-115.

Division heads and other personnel.

Appointment by director, §25-10-106.

Head of department, §25-10-101.

Disbursement of funds, §25-10-127.**Division of volunteerism, §25-10-128.****Divisions.**

Director.

Head of division, §25-10-102.

Enumerated, §25-10-102.

Heads of divisions.

Appointment by director of
department, §25-10-106.

Reports, §25-10-107.

Economic and medical services.

Division of.

Child support enforcement office.
Transfer, §25-8-107.**Employees.**

Health-related services, §25-10-130.

Established, §25-10-101.**Fees.**Charges for institutional services,
§25-10-110.**Funds.**

Advance disbursements, §25-10-127.

Grants-in-aid, §25-10-126.**Interagency fund transfers.**

Matching shares, §25-10-131.

Matching funds transfers, §25-10-131.**Medical services.**

Division of, §25-10-102.

Local and donated funds.

Obtaining federal matching funds,
§25-10-132.**Mental health services.**

Division of, §25-10-102.

Transfer of personnel and
appropriations, §25-10-133.

HUMAN SERVICES DEPARTMENT

—Cont'd

Office of minority mental health.

Community-based residential programs, §25-10-134.

Creation, §25-10-122.

Programs and policies.

Development, §25-10-123.

Programs and policies development, §25-10-123.

State or federal funds, §25-10-124.

Organization.

Generally, §25-10-102.

Program operations.

Division of, §25-10-102.

Public lands.

Proceeds from sale of land.

Deposit in special trust fund, §25-10-121.

Reports.

Divisions, §25-10-107.

Research and training institute.

Authority, §25-10-120.

Purpose, §25-10-120.

Rules and regulations.

Compliance with federal statutes, rules and regulations, §25-10-129.

State institutional system.

Board.

Appointment, §25-10-403.

Composition, §25-10-403.

Established, §25-10-402.

Guidelines, §25-10-402.

Contents, §25-10-401.

Creation, §25-10-401.

Purpose, §25-10-402.

State lands.

Proceeds from sale of land.

Deposit in special trust fund, §25-10-121.

Volunteerism division, §§25-10-102, 25-10-128.**Warrants.**

Certification of vouchers.

Designated disbursing officers, §25-10-119.

Youth services.

Admission policies.

Development of admission policies, §25-10-109.

Division of, §25-10-102.

I**IMMUNITY.****Interlocal cooperation.**

Waterworks.

Immunity of participating public agencies, §25-20-318.

INCOME TAX.**Freedom of information.**

State income tax records.

Records deemed not public records, §25-19-105.

Records.

Freedom of information.

State income tax records.

Records deemed not public records, §25-19-105.

INCOME WITHHOLDING.**Firefighters.**

Retirement systems.

Firemen's relief and pension funds.

Members' contributions, §24-11-816.

Local police and fire retirement system.

Members' contributions, §24-10-404.

Police.

Retirement systems.

Local police and fire retirement system.

Members' contributions, §24-10-404.

Public officers and employees.

Retirement systems.

Firemen's relief and pension funds.

Members' contributions, §24-11-816.

Local police and fire retirement system.

Members' contributions, §24-10-404.

INDUSTRIAL DEVELOPMENT.**Department of industrial development.**

Creation, §25-11-101.

Director.

Head of department, §25-11-101.

Organization of department, §25-11-101.

Personnel of department, §25-11-101.

INFORMATION SYSTEMS, §§25-4-101 to 25-4-124.**Application to educational institutions, §25-4-112.****Budgets, §25-4-119.**

Revisions, §25-4-120.

Contracts.

Generally, §25-4-114.

Professional services contracts, §25-4-115.

Definitions, §25-4-103.**Department of information systems.**

Established, §25-4-104.

Powers and duties, §25-4-105.

INFORMATION SYSTEMS —Cont'd
Department of information systems
—Cont'd

Revolving fund, §25-4-121.

Funds.

Department of information systems revolving fund, §25-4-121.

Information technology reserve fund, §25-4-123.

Surplus funds, §25-4-124.

Information technology centers,
§25-4-109.**Legislative findings,** §25-4-102.**Loans,** §25-4-122.**Office of information technology,**
§25-4-104.

Planning, §25-4-110.

Powers and duties, §25-4-107.

Prerequisites, §25-4-111.

Working groups, §25-4-108.

Payment, §25-4-116.

Cessation of services to nonpaying users, §25-4-117.

Delinquent accounts, §25-4-117.

Reports to joint committee,
§25-4-106.**Reserve for equipment acquisition,**
§25-4-122.**Revisions to processes,** §25-4-120.**Surplus funds,** §25-4-124.**Title,** §25-4-101.**Yearly computation of expenses,**
§25-4-124.**INFORMATION TECHNOLOGY.****Access for the blind.**

Information technology access for the blind, §§25-26-201 to 25-26-206.

See BLIND PERSONS.

Electronic transactions generally,
§§25-32-101 to 25-32-120.**State departments and agencies.**

Chief information officers, §§25-33-101 to 25-33-107.

INJUNCTIONS.**Blind persons.**

Information technology access, §25-26-206.

INSPECTIONS.**Auditor of state.**

Access to other offices, §25-16-506.

Treasurer of state.

Access to other offices, §25-16-605.

INSURANCE.**Fire and police pension and review board.**

Taxation.

Foreign insurance companies.

Administrative and actuarial expenses, §24-11-301.

INSURANCE —Cont'd**Municipal corporations.**

Firemen's relief and pension fund.

Group insurance, §24-11-803.

Group insurance.

Firemen's relief and pension fund, §24-11-803.

Premium taxes.

Policemen's pension and relief funds.

Taxation.

Premium of foreign insurers.

Appropriations, §24-11-301.

Generally, §24-11-302.

Time and procedure of payments to qualified city or town, §24-11-303.

State departments and agencies.

Records.

Inspection of records, §25-1-103.

Taxation.

Fire and police pension review board.

Administrative expenses, §24-11-301.

Foreign insurance companies.

Police officer's pension and relief funds.

Appropriations, §24-11-301.

Police officer's pension and relief funds.

Appropriation of tax revenues, §24-11-301.

Cities and towns qualified to participate in distribution of tax revenues, §24-11-302.

Timing and procedure of payments to qualified city or town, §24-11-303.

INTEREST.**Municipal corporations.**

Pension and relief fund for paid nonuniformed employees, §24-12-110.

Policemen's pension and relief funds.

Deposit of moneys, §24-11-409.

Interest part of fund, §24-11-411.

Restoration of credited service, §24-11-421.

INTERLOCAL COOPERATION.**Agreements.**

Approval, §§25-20-104, 25-20-106.

Filing, §25-20-105.

Provisions, §25-20-104.

Requirements, §25-20-104.

Specifications to be included, §25-20-104.

Submission to state officer or agency controlling services or facilities, §25-20-106.

INTERLOCAL COOPERATION

—Cont'd

Appropriations, §25-20-107.**Citation of act.**

Short title, §25-20-101.

Contracts.Services from another agency,
§25-20-108.**Damages.**Liability for damages under
agreements, §25-20-105.**Definitions**, §25-20-103.**Legislative declaration**, §25-20-102.**Public library systems.**

Public body corporate and politic.

Board of directors, §25-20-202.

Construction of subchapter,
§25-20-206.

Creation, §25-20-201.

Executive director, §25-20-202.

Immunity, §25-20-205.

Powers, §25-20-203.

Tax exempt status, §25-20-204.

Withdrawal of public agency,
§25-20-207.**Purpose of provisions**, §25-20-102.**Title of act.**

Short title, §25-20-101.

Waterworks, §§25-20-301 to 25-20-323.Approval of interlocal agreement,
§25-20-302.

Audits, §25-20-321.

Board of commissioners, §25-20-304.

Powers and duties, §25-20-305.

Bond issues for improvements,
§25-20-310.

Liability of officers, §25-20-314.

Lien for payment, §25-20-311.

Refunding bonds, §25-20-312.

Security for deposit of public funds,
§25-20-313.

Construction of chapter, §25-20-323.

Contributions by public agencies,
§25-20-303.Creation of public body corporate and
politic, §25-20-302.

Eminent domain powers, §25-20-309.

Extension of service outside
jurisdiction of participating
agencies, §25-20-308.Franchise fee payments to agencies,
§25-20-319.Immunity of participating public
agencies, §25-20-318.Operation of consolidated waterworks
system, §25-20-307.Out of area sales and service,
§25-20-308.**INTERLOCAL COOPERATION**

—Cont'd

Waterworks —Cont'd

Payments in lieu of taxes, §25-20-320.

Powers of public body, §25-20-306.

Recreational use of property,
§25-20-315.

Report of activities, §25-20-321.

Supplemental nature of provisions,
§25-20-322.

Tax exemptions, §25-20-317.

Payments in lieu of taxes,
§25-20-320.

Title of provisions, §25-20-301.

Zoning exemptions, §25-20-316.

INTERNET.**Arkansas register.**

Publication on Internet, §25-15-205.

INTERPRETERS.**Administrative procedure.**

Appointment, §25-15-101.

Deaf persons.

Interpreters for the deaf, §25-15-102.

Generally, §25-15-101.

Oath, §25-15-101.

INVENTORY.**Department of finance and
administration.**

Purchasing division.

Inventory of state equipment,
§25-8-106.**INVESTIGATIONS.****Federal encroachment on state
rights.**

Attorney general.

Request of senators or
representatives, §25-21-103.**Law enforcement officers.**

Freedom of information.

Undisclosed investigations of
suspected criminal activity.Records deemed not public records,
§25-19-105.**INVESTMENTS.****Local police and fire retirement
system**, §24-10-402.**Municipal corporations.**

Firemen's relief and pension fund.

Investments in bonds, §24-11-805.

Policemen's pension and relief funds,
§24-11-410.**J****JUDGES.****Freedom of information.**

Opinions and decisions.

Unpublished drafts of opinions and
decisions.Deemed not public records,
§25-19-105.

JUDGES —Cont'd**General assembly.**

Acts of general assembly.

Distribution to judges.

Free distribution to judges,
§25-18-206.

Municipal judges, §§25-18-206,
25-18-207.

Judicial discipline and disability commission.

Subpoena powers, §25-15-104.

Opinions and decisions.

Freedom of information.

Unpublished drafts of opinions and
decisions.

Deemed not public records,
§25-19-105.

JUDICIAL NOTICE.**Administrative procedure.**

Adjudication, §25-15-213.

JUSTICE OF THE PEACE COURTS.**General assembly.**

Acts of general assembly.

Distribution to justices of the peace,
§25-18-206.

L**LABOR.****Department of labor.**

Continued, §25-12-101.

Director, §25-12-101.

Divisions of department, §25-12-101.

Personnel of department, §25-12-101.

Transfers to department, §25-12-101.

LANDSCAPE ARCHITECTS.**Board of landscape architects.**

Subpoena powers, §25-15-104.

LAW ENFORCEMENT OFFICERS.**Freedom of information.**

Investigations.

Undisclosed investigations of
suspected criminal activity.

Records deemed not public records,
§25-19-105.

Investigations.

Freedom of information.

Undisclosed investigations of
suspected criminal activity.

Records deemed not public records,
§25-19-105.

Undercover officer lists.

Public records, §25-19-105.

LAW LIBRARIES.**Supreme court reports.**

Annual check of county law libraries,
§25-18-213.

LAW LIBRARIES —Cont'd**Supreme court reports —Cont'd**

Destroyed volumes.

Replacement of destroyed volumes,
§25-18-215.

LIBRARIES.

Public body corporate and politic,
§§25-20-201 to 25-20-207.

See INTERLOCAL COOPERATION.

University of Arkansas.

Depository for public records,
§§25-18-301 to 25-18-308.

See UNIVERSITY OF ARKANSAS.

LICENSES.**Administrative procedure.**

Definitions, §25-15-202.

Proceedings as to, §25-15-211.

Revocation or suspension of licenses,
§25-15-211.

LIENS.**Interlocal cooperation.**

Waterworks.

Bond issues for improvements.

Lien for payment, §25-20-311.

LIEUTENANT GOVERNOR.

Salary, §6, §25-16-101.

Senate.

Custodian of senate chamber and
records, §25-16-301.

LIQUEFIED PETROLEUM GAS.**Board.**

Subpoenas, §25-15-104.

LOCAL GOVERNMENTS.**Definitions.**

Trust funds, §24-9-202.

Finance.

Trust funds, §§24-9-201 to 24-9-209.

See within this heading, "Trust
funds."

Interlocal cooperation, §§25-20-101 to
25-20-108.

See INTERLOCAL COOPERATION.

Trust funds.

Applicability of provisions, §24-9-203.

Defined, §24-9-202.

Deposits.

Bank accounts, §24-9-205.

Certificates of deposit, §24-9-206.

Investment, §24-9-201.

Deposits, §§24-9-205, 24-9-206.

Negotiable securities, §24-9-208.

Registered securities, §24-9-207.

Securities.

Investment.

Negotiable securities, §24-9-208.

Registered securities, §24-9-207.

LOCAL GOVERNMENTS —Cont'd**Trust funds —Cont'd****Securities —Cont'd**

Listing of securities, §24-9-209.

Trust department, §24-9-204.

**LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.****Accounts and accounting.**

Asset accounts, §24-10-403.

Employer accumulation account,
§24-10-405.

Income-expense account, §24-10-407.

Members' deposit account, §24-10-404.

Retirement reserve account,
§24-10-406.**Actuaries.**

Board of trustees.

Appointment of actuary, §24-10-204.

Valuations of each employers
participation, §24-10-401.**Administration of system.**

Expenses, §24-10-408.

Age.

Normal retirement age.

Defined, §24-10-102.

Annuities.

Compulsory retirement, §24-10-605.

Death.Limitations on death annuities,
§24-10-610.

Member in paid service, §24-10-608.

Member in volunteer service,
§24-10-609.

Defined, §24-10-102.

Disability retirement, §24-10-607.

Limitations on disability annuities,
§24-10-610.

Early retirement, §24-10-606.

Election of annuity options,
§24-10-603.

Enhancement of benefit.

Restrictions, §24-10-106.

Exemptions from legal process,
§24-10-616.

Generally, §24-10-602.

Options, §24-10-603.

Reserve value.

Payment, §24-10-614.

Temporary annuity, §24-10-602.

Termination of covered employment,
§24-10-611.

Voluntary retirement, §24-10-604.

Attachment.Exemption of benefit rights,
§24-10-616.**LOCAL POLICE AND FIRE****RETIREMENT SYSTEM —Cont'd****Attorneys at law.**

Board of trustees.

Legal advisor of board.

Appointment of attorney at law or
firm of attorneys, §24-10-204.**Audits and auditors.**

Board of trustees.

Audit of records and accounts by
certified public accountants.

Arranging for, §24-10-204.

Bankruptcy and insolvency.Exemption of benefit rights,
§24-10-616.**Benefits.**

Enhancement of benefit.

Limitations, §24-10-106.

Exemptions from legal process,
§24-10-616.

Generally, §24-10-601.

Limitations granted by acts of 1977,
§24-10-618.

Payment, §24-10-601.

Suspension of payments upon
request, §24-10-615.

Redetermination, §24-10-612.

Reserve value.

Payment, §24-10-614.

Suspension of payments upon request,
§24-10-615.

Tax exemption, §24-10-103.

Board of trustees.

Appointment of members, §24-10-201.

Audits of records and accounts.

Arranging for, §24-10-204.

Composition, §24-10-201.

Employees, §24-10-204.

Executive director.

Employment of, §24-10-204.

Investment advisor.

Appointment, §24-10-204.

Investments, §24-10-402.

Legal advisor.

Appointment of attorney at law or
firm of attorneys, §24-10-204.

Meetings, §24-10-203.

Number of members, §24-10-201.

Officers, §24-10-203.

Personnel, §24-10-204.

Qualifications of members, §24-10-201.

Quorum, §24-10-203.

Records, §24-10-205.

Reports, §24-10-205.

Rules and regulations, §24-10-203.

Terms of members, §24-10-201.

Vacancies, §24-10-202.

Filling, §24-10-202.

LOCAL POLICE AND FIRE RETIREMENT SYSTEM —Cont'd

Chiefs.

Credited service, §24-10-508.

Compulsory retirement.

Annuities, §24-10-605.

Contributions.

Accumulated contributions.

Defined, §24-10-102.

Disposition, §24-10-613.

Delinquent payments, §24-10-410.

Employer accumulation account,
§24-10-405.

Members' deposit account, §24-10-404.

State contributions, §24-10-408.

Proration between political
subdivision and its relief fund,
§24-10-409.

Coverage by employer, §24-10-302.

Creation, §24-10-101.

Credited service.

Chiefs, §24-10-508.

Defined, §24-10-102.

Disability, §24-10-503.

Forfeiture, §24-10-504.

Restoration, §24-10-504.

Membership in public employees'
retirement system, §24-10-505.

Military personnel, §24-10-509.

Military service, §24-10-502.

Paid service, §24-10-501.

Defined, §24-10-102.

Purchases, §24-10-506.

Related systems, §24-10-505.

Purchases, §24-10-506.

Volunteer service, §24-10-501.

Defined, §24-10-102.

Death.

Annuities.

Death of member in paid service,
§24-10-608.

Death of member in volunteer
service, §24-10-609.

Limitations on death annuities,
§24-10-610.

Contributions.

Disposition of accumulated
contributions, §24-10-613.

Definitions, §24-10-102.

Disability.

Annuities.

Disability retirement, §24-10-607.

Limitations on disability annuities,
§24-10-610.

Credited service, §24-10-503.

Early retirement.

Annuities, §24-10-606.

LOCAL POLICE AND FIRE RETIREMENT SYSTEM —Cont'd

Employer accumulation account,
§24-10-405.

Employers.

Coverage by employer, §24-10-302.

Defined, §24-10-102.

Executions.

Exemption of benefit rights,
§24-10-616.

Executive director, §24-10-204.

Fraud.

Exemption of benefit rights.

Exception, §24-10-616.

Penalty, §24-10-105.

Garnishment.

Exemption of benefit rights,
§24-10-616.

Income-expense account, §24-10-407.

Inflation index.

Defined, §24-10-102.

Investment advisor.

Board of trustees.

Appointment, §24-10-204.

Investments, §24-10-402.

**Limitation on benefits granted by
acts 1997,** §24-10-618.

Members' deposit account,
§24-10-404.

Membership.

Generally, §24-10-301.

Military affairs.

Credited service, §24-10-502.

Military personnel.

Credited service, §24-10-509.

Mistake or error.

Correction of errors, §24-10-104.

Municipal corporations.

Firemen's relief and pension fund.

Administration of small funds by
local police and fire retirement
system, §24-11-804.

Policemen's pension and relief funds.

Administration of small funds by
local police and fire retirement
system, §24-11-406.

Transfer of municipal police officers
from public employees' system,
§24-10-304.

Nonprofit fire protection organizations.

Participation and distribution of
insurance premium tax revenues,
§24-11-810.

Objectives of system.

Financial objectives, §24-10-401.

Participation.

Rules and regulations governing,
§24-10-303.

LOCAL POLICE AND FIRE RETIREMENT SYSTEM —Cont'd

Pay.

- Defined, §24-10-102.
- Final average pay.
- Defined, §24-10-102.

Penalties.

- Fraud, §24-10-105.

Physical examinations of employees, §24-10-301.

Purpose of provisions, §24-10-101.

Reciprocal system, §24-10-507.

Records.

- Board of trustees, §24-10-205.

Redetermination of benefits, §24-10-612.

Relief funds.

- Defined, §24-10-102.
- Proration of state revenues between political subdivision and its relief fund, §24-10-409.
- Transfer of subsidy account funds, §24-10-411.

Reports.

- Board of trustees, §24-10-205.

Retirement reserve account, §24-10-406.

Rules and regulations.

- Board of trustees, §24-10-203.
- Participation, §24-10-303.

Subsidy account funds.

- Transfers, §24-10-411.

Surviving spouses, §24-10-617.

- Death annuities, §§24-10-608 to 24-10-610.

Survivor health benefits, §24-10-617.

Taxation.

- Exemption of benefits, §24-10-103.

Termination of covered employment.

- Annuities, §24-10-611.

Transfer of municipal police officers from public employees' system, §24-10-304.

Veterans.

- Credited service, §24-10-509.

Voluntary retirement.

- Annuities, §24-10-604.

LOCAL SERVICES DEPARTMENT.

Advisory boards, commissions and councils.

- Community services advisory council, §25-10-117.

Community services advisory council.

- Composition, §25-10-117.
- Duties, §25-10-117.
- Established, §25-10-117.

LOCAL SERVICES DEPARTMENT —Cont'd

Community services advisory council —Cont'd

- Generally, §25-10-117.

M

MARTIN LUTHER KING, JR. COMMISSION.

Creation, §25-24-101.

Duties, §25-24-102.

Members, §25-24-101.

Powers, §25-24-103.

MEDICAL RECORDS.

Freedom of information.

- Records deemed not public records, §25-19-105.

MEETINGS.

Freedom of information act.

- Public meetings.
- Defined, §25-19-103.
- Executive sessions.
- Restrictions on, §25-19-106.
- Open meetings, §25-19-106.

MENTAL HEALTH.

Human services department.

- Admission policies.
- Development by department, §25-10-109.
- Charges for institutional services, §25-10-110.

Office of minority mental health, §§25-10-122 to 25-10-134.

- Administration.
- Head of office, §25-10-122.
- Programs and policies development, §25-10-123.
- State or federal funds, §25-10-124.
- Creation, §25-10-122.
- Programs and policies development, §25-10-123.

MERGER.

Fire protection districts.

- City or town merged with district.
- Firemen's relief and pension funds merged.
- Effect on board of trustees, §24-11-824.

MICROFILM.

Secretary of state.

- State records, §25-18-102.

MILITARY AFFAIRS.

Local police and fire retirement system.

- Credited service, §24-10-502.

MILITARY AFFAIRS —Cont'd**Municipal corporations.**

- Firemen's relief and pension fund.
- Credit for compulsory military service.
- Qualification, §24-11-817.
- Policemen's pension and relief funds.
- Procedure for purchasing credited service for military service, §§24-11-418, 24-11-419.

MINORITIES.**Office of minority mental health,**

§§25-10-122 to 25-10-134.

See HUMAN SERVICES
DEPARTMENT.

MISDEMEANORS.**Freedom of information act.**

Negligent violations, §25-19-104.

Settlement agreement violations,
§25-18-403.**State auditor, §25-16-501.**

Issuing false treasury warrants,
§25-16-517.

State institution boards.

Oath required, §25-17-207.

State officers.

Failure to serve subpoena, §25-16-705.

Teachers' licenses.

Printing blanks, §25-16-508.

Treasurer of state.

Refusal to pay warrants, §25-16-607.

Violations, §25-16-601.**MISTAKE OR ERROR.****Local police and fire retirement
system.**

Correction of errors, §24-10-104.

MOTOR VEHICLES.**Speed.**

Limits.

State institutions.

Posting, §25-17-307.

Rules and regulations, §25-17-307.

State institutions.

Applicability of provisions, §25-17-302.

Rules and regulations, §25-17-307.

Recordation and filing, §25-17-307.

Violations, §25-17-307.

Fines.

Disposition, §25-17-303.

Prosecution, §25-17-303.

Speed limits.

Posting, §25-17-307.

Rules and regulations, §25-17-307.

State motor vehicles.

Cost effectiveness, §25-1-110.

State departments and agencies to
review cost effectiveness,
§25-1-110.

MUNICIPAL CORPORATIONS.**Appeals.**

Firemen's relief and pension fund.

Appeals to circuit court, §24-11-815.

Attorneys at law.

Retirement benefits for city attorneys
in first and second class cities,
§24-12-120.

Beneficiaries.

Pension and relief fund for paid
nonuniformed employees.

Name and relationship of
beneficiaries furnished by
employees, §24-12-117.

Board of municipal corporations.

Increases in surviving spouse benefits,
§24-11-829.

Bond issues.

Firemen's relief and pension fund.

Investment in bonds, §24-11-805.

Bonds, surety.

Policemen's pension and relief funds.

Custodian of fund, §24-11-408.

Treasurer, §24-11-408.

Burden of proof.

Pension and relief fund for paid
nonuniformed employees.

Applications for pension, §24-12-117.

Policemen's pension and relief funds.

Right to pension, §24-11-425.

Circuit courts.

Firemen's relief and pension fund.

Appeals to circuit court, §24-11-815.

Cities of the first class.

Attorneys at law.

Retirement benefits for city
attorneys in first and second
class cities, §24-12-120.

City clerks.

Clerk-treasurer.

Retirement, §24-12-121.

Pay, §24-12-121.

Deputies.

Retirement, §24-12-122.

Pay, §24-12-122.

Retirement, §24-12-121.

Pay, §24-12-121.

City treasurers.

Retirement, §24-12-121.

Amount of benefits, §24-12-125.

Benefits, §24-12-125.

Pay, §24-12-121.

Mayors.

Retirement.

Benefits, §24-12-123.

Continuation of prior benefits,
§24-12-123.

Eligibility, §24-12-123.

MUNICIPAL CORPORATIONS

—Cont'd

Cities of the first class —Cont'd

Mayors —Cont'd

Retirement —Cont'd

Benefits —Cont'd

Survivor benefits for spouse,
§24-12-123.Effect of provisions on retired
mayors.Continuation of prior benefits,
§24-12-123.Survivor benefits for spouse,
§24-12-123.

Retirement.

City attorneys, §24-12-120.

City clerks, §24-12-121.

Pay, §24-12-121.

City treasurers, §24-12-121.

Amount of benefits, §24-12-125.

Benefits, §24-12-125.

Pay, §24-12-121.

Clerk-treasurers, §24-12-121.

Pay, §24-12-121.

County health care plan
participation, §24-12-128.

Deputy city clerks, §24-12-122.

Pay, §24-12-122.

City councils.

Open public meetings, §25-19-106.

City treasurers.

Policemen's pension and relief funds.

Treasurer custodian of fund,
§24-11-408.**Cooperation.**Interlocal cooperation, §§25-20-101 to
25-20-108.

See INTERLOCAL COOPERATION.

Death.

Firemen's relief and pension fund.

Benefits.

Death of active or retired member
other than while employed
outside department,
§24-11-820.Death of retiree or beneficiary,
§24-11-822.Pension and relief fund for paid
nonuniformed employees.

Benefits, §24-12-117.

Policemen's pension and relief funds.

Benefits.

Death of active or retired member,
§24-11-425.**Definitions.**

Injured in the line of duty, §24-11-433.

Pension and relief fund for paid
nonuniformed employees,
§24-12-101.**MUNICIPAL CORPORATIONS**

—Cont'd

Definitions —Cont'd

Pensions.

Disclosure of condition of pension,
§24-11-201.

Policemen's pension and relief funds.

Injured in the line of duty,
§24-11-433.**Deposits.**Pension and relief fund for paid
nonuniformed employees.Money deposited in banks,
§24-12-108.Policemen's pension and relief funds,
§24-11-409.Board to deposit money in bank,
§24-11-409.**Devises.**

Firemen's relief and pension fund.

Acceptance of devises, §24-11-803.

Drunkness.

Firemen's relief and pension fund.

Cessation of payments, §24-11-821.

Elections.

Firemen's relief and pension fund.

Taxation.

Levy of tax to pay pensions,
§24-11-812.Pension and relief fund for paid
nonuniformed employees.

Form of ballot, §24-12-103.

Vote on act required, §24-12-103.

Policemen's pension and relief funds.

Submission of question to voters,
§24-11-402.

Tax levy.

Cities of first and second class,
§24-11-404.Vote required to make act effective,
§24-11-402.**Emergencies.**

Firemen's relief and pension fund.

Service of retired firemen,
§24-11-819.**Epidemics.**

Firemen's relief and pension fund.

Service of retired firemen,
§24-11-819.**Examinations.**

Firemen's relief and pension fund.

Disabled firemen, §24-11-819.

Executions.Pension and relief fund for paid
nonuniformed employees.Exemption from seizure or levy,
§24-12-114.

MUNICIPAL CORPORATIONS

—Cont'd

Felonies.

Firemen's relief and pension fund.

Cessation of payments, §24-11-821.

Fire departments.

Pensions.

Fire and police pension review board,
§24-11-203.**Firemen's relief and pension fund.**Actuarial valuation of plan,
§24-11-205.

Appeals to circuit court, §24-11-815.

Removal or discharge without cause,
§24-11-821.

Applicability of provisions, §24-11-832.

Appropriation of insurance premium
tax, §24-11-809.Acceptance of appropriations,
§24-11-803.

Additional revenues.

Apportionment, §24-11-810.

Apportionment of additional
revenues, §24-11-810.

Certified lists, §24-11-809.

Commissioner and companies to
report, §24-11-809.

Reports.

Commissioner and companies to
report, §24-11-809.**Benefits.**

Additional benefits.

Certain firefighters hired prior to
January 1, 1983, §24-11-826.Death of active or retired member
other than while employed
outside department, §24-11-820.Death of retirant or beneficiary,
§24-11-822.Deferred retirement option plan,
§24-11-830.

Disability retirement, §24-11-819.

Increase in surviving spouse
benefits, §24-11-829.

Voluntary retirement, §24-11-818.

Board of trustees.

Composition, §24-11-801.

Direction of members, §24-11-801.

Disbursement of funds, §24-11-802.

Expenses.

Payment, §24-11-803.

Lists of pensions furnished,
§24-11-802.

Meetings, §24-11-802.

Quorum, §24-11-802.

Officers, §24-11-801.

Payment of expenses, §24-11-803.

Powers, §24-11-803.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Board of trustees —Cont'd

Quorum, §24-11-802.

Records.

Proceedings, §24-11-802.

Reports, §24-11-801.

Rules and regulations, §24-11-803.

Power to make, §24-11-801.

Terms of members, §24-11-801.

Testimony of witnesses, §24-11-803.
Witnesses.

Testimony, §24-11-803.

Bond issues.

Investment in bonds, §24-11-805.

Certain firefighters hired prior to

January 1, 1983.

Additional benefits for, §24-11-826.

Certificate of service, §24-11-818.

Certificates of disability, §24-11-819.

Cessation of payments under certain
conditions, §24-11-821.

Clerks.

Report to be filed by clerk,
§24-11-813.

Confinement in hospitals, §24-11-819.

Death benefits.

Death of active or retired member
other than while employed
outside department, §24-11-820.Death of retirant or beneficiary,
§24-11-822.Increase in surviving spouse
benefits, §24-11-829.Deferred retirement option plan,
§24-11-830.

Drunkenness.

Cessation of payments, §24-11-821.

Elections.

Levy of tax to pay pensions,
§24-11-812.

Employment.

Reemployment of retired member,
§24-11-827.Epidemics, conflagrations or
emergencies.Service of retired firemen,
§24-11-819.

Examinations.

Disabled firemen, §24-11-819.

Felonies.

Cessation of payments under certain
conditions, §24-11-821.Fire and police pension review board,
§24-11-203.

Fire protection districts, §24-11-824.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Fire-related service, §24-11-833.

Future supplement funds, §24-11-212.

Gifts and donations.

Acceptance of gifts, §24-11-803.

Group insurance, §24-11-803.

Increase in benefits.

Fire and police pension funds
authorized to increase,
§24-11-102.

Conditions, §24-11-102.

Contents of evaluation, §24-11-103.

Cost of actuarial evaluation,
§24-11-103.

Legislative intent, §24-11-101.

Total permanent disability.

Conditions, §24-11-823.

Insurance.

Group insurance, §24-11-803.

Insurance premium taxes, §24-11-831.

Insurance premium tax revenues.

Planned community property owners
association.Participation in distribution,
§24-11-811.

Investment in bonds, §24-11-805.

Involvement in fire department after
retirement, §24-11-818.

Reemployment, §24-11-827.

Local police and fire retirement
system.Administration of small funds by,
§24-11-804.

Military affairs.

Credit for compulsory military
service.

Qualification, §24-11-817.

Money used solely for purpose of fund,
§24-11-805.

Options to defer, §24-11-830.

Participation in fund.

Act supplemental, §24-11-816.

Administration of funds, §24-11-816.

Contributions by municipality or fire
protection district, §24-11-816.

Deductions from salary, §24-11-816.

Use of deductions, §24-11-816.

Election not to participate,
§24-11-816.Failure to file statement or allow
deductions, §24-11-816.Reemployment of retired member,
§24-11-827.

Resignation or discharge, §24-11-816.

Refund, §24-11-816.

MUNICIPAL CORPORATIONS

—Cont'd

Firemen's relief and pension fund

—Cont'd

Participation in fund —Cont'd

Statement of persons desiring to
participate, §24-11-816.

Contents, §24-11-816.

Failure to file statement or allow
deductions, §24-11-816.

Effect, §24-11-816.

Supplemental nature of act,
§24-11-816.Use of deductions and contributions,
§24-11-816.

Payments.

Appeals to circuit court, §24-11-815.

Fund prorated when insufficient,
§24-11-807.

Minimum payment, §24-11-807.

Not subject to attachment,
assignment or transfer,
§24-11-814.Priority of hospital payments,
§24-11-807.

Exceptions, §24-11-807.

Upon vouchers, §24-11-806.

Pension based upon rank, §24-11-818.

Planned community property owners
association.

Defined, §24-11-811.

Participation in distribution of
insurance premium tax revenues,
§24-11-811.

Rank.

Pension based upon rank,
§24-11-818.Reemployment of retired member,
§24-11-827.Removal or discharge without cause,
§24-11-821.

Appeal to circuit court, §24-11-821.

Reports.

Board of trustees, §24-11-801.

Clerk to file, §24-11-813.

Retired member returning to active
service, §24-11-827.Retirement upon physical or mental
disability, §24-11-819.

Certificates of disability, §24-11-819.

Restoration to service, §24-11-819.

Right of retirement, §24-11-818.

Right to participate vested, §24-11-818.

Rules and regulations.

Board of trustees.

Power to make, §24-11-801.

MUNICIPAL CORPORATIONS

- Cont'd
- Firemen's relief and pension fund**
 - Cont'd
 - Salaries.
 - Deductions from salary, §24-11-816.
 - Administration of funds, §24-11-816.
 - Failure to allow deductions, §24-11-816.
 - Refund upon resignation or discharge, §24-11-816.
 - Use of deductions, §24-11-816.
 - Service with more than one fire department, §24-11-825.
 - Sole purpose of money.
 - Fund purposes, §24-11-805.
 - Survivor benefits.
 - Fire and police pension funds authorized to increase, §24-11-102.
 - Conditions, §24-11-102.
 - Contents of evaluation, §24-11-103.
 - Cost of actuarial evaluation, §24-11-103.
 - Legislative intent, §24-11-101.
 - Spousal increases, §24-11-829.
 - Taxation.
 - Levy of tax to pay pensions, §24-11-812.
 - Administration, §24-11-812.
 - By city council, §24-11-812.
 - Collection, §24-11-812.
 - Elections.
 - Vote upon tax question, §24-11-812.
 - Money turned over to board of trustees, §24-11-812.
 - Tax fund supplemental to other funds, §24-11-812.
 - Vote upon tax question, §24-11-812.
 - Total permanent disability.
 - Increase in benefits for certain persons retired due to total permanent disability.
 - Conditions, §24-11-823.
 - Vesting of right to participate, §24-11-818.
 - Voluntary retirement.
 - Benefits, §24-11-818.
 - Vouchers.
 - Payments monthly upon proper vouchers, §24-11-806.
 - Funds.**
 - Policemen's pension and relief funds.
 - Generally, §§24-11-401 to 24-11-433.
 - See within this heading, "Policemen's pension and relief funds."

MUNICIPAL CORPORATIONS

- Cont'd
- Funerals.**
 - Pension and relief fund for paid nonuniformed employees.
 - Funeral expenses, §24-12-118.
 - Policemen's pension and relief funds.
 - Funeral expenses of policemen, §24-11-430.
 - Retroactivity of 1983 amendment, §24-11-430.
- Governing bodies.**
 - Open public meetings, §25-19-106.
- Hearings.**
 - Pension and relief fund for paid nonuniformed employees.
 - Board of trustees, §24-12-105.
- Insurance.**
 - Firemen's relief and pension fund.
 - Group insurance, §24-11-803.
 - Group insurance.
 - Firemen's relief and pension fund, §24-11-803.
- Interest.**
 - Pension and relief fund for paid nonuniformed employees, §24-12-110.
 - Policemen's pension and relief funds, §24-11-409.
 - Deposit of moneys, §24-11-409.
 - Interest part of fund, §24-11-411.
 - Restoration of credited service, §24-11-421.
- Interlocal cooperation.**
 - General provisions, §§25-20-101 to 25-20-108.
 - See INTERLOCAL COOPERATION.
- Investment advisors.**
 - Pension and relief fund for paid nonuniformed employees, §§24-12-201 to 24-12-204.
- Investments.**
 - Firemen's relief and pension fund.
 - Investments in bonds, §24-11-805.
 - Policemen's pension and relief funds, §24-11-410.
 - Investment of funds in securities, §24-11-410.
- Mayors.**
 - Monthly benefit increase, §24-12-131.
- Military affairs.**
 - Firemen's relief and pension fund.
 - Credit for compulsory military service.
 - Qualification, §24-11-817.
 - Policemen's pension and relief funds.
 - Procedure for purchasing credited service for military service, §§24-11-418, 24-11-419.

MUNICIPAL CORPORATIONS

—Cont'd

Open public meetings.

City councils, §25-19-106.

Governing bodies, §25-19-106.

Penalties.

Policemen's pension and relief funds.

Fines and forfeitures added to fund,
§24-11-413.**Pension and relief fund for paid nonuniformed employees.**

Amount prorated, §24-12-112.

Applicability of act, §24-12-102.

Application for pension, §24-12-117.

Proof required, §24-12-117.

Banks.Deposit of money in bank,
§24-12-108.**Beneficiaries.**Name and relationship furnished by
employees, §24-12-117.**Benefits.**

Death, §24-12-117.

Permanent total disability
retirement, §24-12-116.Temporary total disability
retirement, §24-12-115.

Voluntary retirement, §24-12-115.

Board of trustees.Control and management of fund by
board, §24-12-105.

Hearings, §24-12-105.

Membership, §24-12-105.

Records.

Proceedings, §24-12-105.

Terms of office, §24-12-105.

Bonds, surety.

Treasurer, §24-12-107.

Condition of fund.

Reports, §24-12-113.

Custodian of fund.

Bonds, surety, §24-12-107.

Treasurer, §24-12-107.

Death of employee.

Rights of dependents, §24-12-117.

Definitions, §24-12-101.**Deposits.**Money deposited in bank,
§24-12-108.

Securities, §24-12-109.

Elections.

Form of ballot, §24-12-103.

Vote on act required, §24-12-103.

Form of ballot, §24-12-103.

Exemption from seizure or levy,
§24-12-114.

Funeral expenses, §24-12-118.

MUNICIPAL CORPORATIONS

—Cont'd

Pension and relief fund for paid nonuniformed employees —Cont'd**Hearings.**

Board of trustees, §24-12-105.

Inapplicable to certain cities,
§24-12-102.

Insufficiency of fund, §24-12-112.

Interest, §24-12-110.

Investment advisor, §§24-12-201 to
24-12-204.

Authority to employ, §24-12-202.

City, defined, §24-12-201.

Construction, §24-12-204.

Immunity, §24-12-203.

Jurisdiction, §24-12-203.

Power to invest, §24-12-201.

Investment of funds, §24-12-109.

Levy.Fund exempt from seizure or levy,
§24-12-114.

Money added to fund, §24-12-111.

Name and relationship of beneficiaries
furnished by employees,
§24-12-117.

Payments from fund, §24-12-110.

Proration of amount, §24-12-112.

Records.

Board of trustees.

Record of proceedings, §24-12-105.

Book of retired employees,
§24-12-106.

Record of proceedings, §24-12-105.

Refunds.

No refunds allowed, §24-12-111.

Relationship of beneficiaries furnished
by employees, §24-12-117.**Reports.**

Condition of fund, §24-12-113.

Right of dependents on death of
employee, §24-12-117.**Seizure.**Fund exempt from seizure or levy,
§24-12-114.**Taxation.**

Tax levy to support fund, §24-12-104.

Treasurer.

Bonds, surety, §24-12-107.

Custodian of fund, §24-12-107.

Vote on act required, §24-12-103.

Pensions.**Definitions.**Disclosure of condition of pension,
§24-11-201.

Disclosure of condition of pension.

Actuarial valuation, §24-11-205.

MUNICIPAL CORPORATIONS

—Cont'd

Pensions —Cont'd

Disclosure of condition of pension

—Cont'd

Administration of underfunded plans, §24-11-208.

Annual accountant's report, §24-11-207.

Contents, §24-11-207.

Annual financial report, §24-11-206.

Definitions, §24-11-201.

Executive director.

Certification of noncompliance with act, §24-11-202.

General financial objective of plan, §24-11-204.

Noncompliance with act, §24-11-202.

Reports.

Annual accountant's report, §24-11-207.

Annual financial report, §24-11-206.

Executive director.

Disclosure of condition of pension.

Certification of noncompliance with act, §24-11-202.

Fire and police pension guarantee fund, §24-11-209.

Fire and police pension review board, §24-11-303.

Policemen's pension supplement program, §24-11-211.

Future supplement funds, §24-11-212.

Requirements for qualified plans, §24-11-210.

Underfunded plans.

Administration, §24-11-208.

Fire and police pension guarantee fund, §24-11-209.

Petitions.

Policemen's pension and relief funds.

Vote required to make act effective.

Petition to submit, §24-11-402.

Planned community property owners association.

Defined, §24-11-811.

Firemen's pension and relief fund.

Participation in distribution of insurance premium tax revenues, §24-11-811.

Police departments.

Fire and police pension review board, §24-11-203.

Policemen's pension and relief funds.

Actuarial evaluation, §24-11-426.

Valuation of plan, §24-11-205.

MUNICIPAL CORPORATIONS

—Cont'd

Policemen's pension and relief funds

—Cont'd

Additions to fund.

Proceeds derived from sale of confiscated goods, §24-11-415.

Applicability of provisions, §24-11-401.

Inapplicable to cities already having pension and relief fund, §24-11-401.

Application for pension, §24-11-425.

Arkansas fire and police pension guarantee fund.

Benefits.

Buy out option, §24-11-435.

Beneficiaries.

Name to be on file, §24-11-425.

Benefits.

Benefits of dependents of policemen killed or dying in performance of duty or dying while retired, §24-11-425.

Educational payments, §24-11-425.

Limitations, §24-11-425.

Death of active or retired member, §24-11-425.

Disability retirement, §24-11-423.

Partial disability benefits, §24-11-433.

Increase.

Work beyond twenty-fifth year, §24-11-432.

Monthly minimum benefit, §24-11-424.

Optional vesting rights policy, §24-11-426.

Retirant receiving less than one-half salary, §24-11-424.

Voluntary retirement, §24-11-422.

Board of trustees.

Composition, §24-11-405.

Duties, §24-11-405.

Reports.

Condition of fund, §24-11-412.

Rules and regulations, §24-11-405.

Terms of members, §24-11-405.

Bonds, surety.

Cities of the first class.

Custodian of fund, §24-11-408.

Custodian of fund, §24-11-408.

Treasurer, §24-11-408.

Buy out option, §24-11-435.

Cities of the first class.

Elections.

Tax levy, §24-11-404.

Tax levy, §24-11-404.

MUNICIPAL CORPORATIONS

—Cont'd

Policemen's pension and relief funds

—Cont'd

Cities of the second class.

Elections.

Tax levy, §24-11-404.

Tax levy, §24-11-404.

City treasurers.

Treasurer custodian of fund,
§24-11-408.

Condition of fund.

Board to report on, §24-11-412.

Confiscation.

Sale of confiscated goods.

Proceeds deposited into fund,
§24-11-415.

Contributions, §24-11-413.

Salary deductions, §24-11-413.

Return, §24-11-428.

Creation, §24-11-403.

Credited service.

Military service, §24-11-436.

Purchase of military service by
active police in cities of 75,000
or more, §24-11-419.Purchase of military service by
past or present members,
§24-11-418.

Police-related service, §24-11-438.

Purchase of former law enforcement
service, §24-11-437.

Restoration, §24-11-421.

Custodian of fund.

Bonds, surety, §24-11-408.

Treasurer custodian, §24-11-408.

Data kept in records.

List of retired policemen, §24-11-407.

Death.

Benefits, §24-11-425.

Deferred retirement option plan,
§24-11-434.

Deposit of securities, §24-11-410.

Deposits, §24-11-409.

Interest, §24-11-409.

Moneys deposited in bank,
§24-11-409.

Disability retirement.

Benefits, §24-11-423.

Partial disability benefits,
§24-11-433.

Elections.

Submission of question to voters,
§24-11-402.

Tax levy.

Cities of first and second class,
§24-11-404.**MUNICIPAL CORPORATIONS**

—Cont'd

Policemen's pension and relief funds

—Cont'd

Elections —Cont'd

Vote required to make act effective,
§24-11-402.Form of question on ballot,
§24-11-402.

Petition to submit, §24-11-402.

Submittal of provisions,
§24-11-402.Election to withdraw contributions,
§24-11-426.Exemption from legal process,
§24-11-417.

Fines and forfeitures.

Moneys added to fund, §24-11-413.

Fire and police pension review board,
§24-11-203.Funeral expenses of police officers,
§24-11-430.

Legislative intent, §24-11-430.

Retroactivity of 1983 amendment,
§24-11-430.

Future supplement funds, §24-11-212.

Inapplicability of provisions.

Cities already having pension and
relief fund, §24-11-401.

Increase in benefits.

Work beyond twenty-fifth year,
§24-11-432.

Injury in the line of duty.

Defined, §24-11-433.

Insufficiency of fund, §24-11-416.

Interest.

Constitutes part of fund, §24-11-411.

Deposit of money, §24-11-409.

Restoration of credited service,
§24-11-421.

Investments, §24-11-410.

Leaves of absence.

Vacation pay, §24-11-429.

Legislative intent, §24-11-430.

List of retired police officers,
§24-11-407.Local police and fire retirement
system.Administration of small funds by,
§24-11-406.

Military affairs.

Procedure for purchasing credit for
military service, §§24-11-418,
24-11-419.Money not subject to process,
§24-11-417.Name of beneficiary of death benefits
to be on file, §24-11-425.

MUNICIPAL CORPORATIONS

—Cont'd

Policemen's pension and relief funds

—Cont'd

Optional vesting rights policy,
§24-11-426.

Option to defer, §24-11-434.

Partial disability pensions, §24-11-433.

Payments from fund upon warrants,
§24-11-411.

Penalties.

Fines and forfeitures added to fund,
§24-11-413.

Petitions.

Vote required to make act effective.

Petition to submit, §24-11-402.

Proof of right to pension, §24-11-425.

Proration upon insufficiency of fund,
§24-11-416.Purchase of credited service by active
police in cities of 75,000,
§24-11-419.

Actuarial determination.

Basis, §24-11-419.

When fund deemed actuarially
sound, §24-11-419.Basis of actuarial determination,
§24-11-419.

Increase in benefits, §24-11-419.

Military service.

Purchasing credit, §24-11-419.

Procedure for purchasing credit for
military service, §24-11-419.When fund deemed actuarially
sound, §24-11-419.Purchase of credited service by past or
present members of fund,
§24-11-418.

Qualifications, §24-11-418.

Purposes, §24-11-417.

Records, §24-11-407.

List of retired policemen, §24-11-407.

Data kept in record, §24-11-407.

Reports.

Board to report condition of fund,
§24-11-412.

Right to pension.

Proof, §24-11-425.

Rules and regulations.

Board of trustees, §24-11-405.

Salary deductions, §24-11-413.

Return, §24-11-428.

Scope of provisions, §24-11-401.

Sources, §24-11-413.

Sale of confiscated goods.

Proceeds from, §24-11-415.

Summons and process.

Money not subject to process,
§24-11-417.**MUNICIPAL CORPORATIONS**

—Cont'd

Policemen's pension and relief funds

—Cont'd

Survivor benefits.

Fire and police pension funds
authorized to increase,
§24-11-102.

Conditions, §24-11-102.

Contents of evaluation, §24-11-103.

Cost of actuarial evaluation,
§24-11-103.

Legislative intent, §24-11-101.

Taxation.

Premium tax of foreign insurers.

Cities and towns qualified to
participate in distribution of
tax revenues.

Appropriations, §24-11-301.

Generally, §24-11-302.

Timing and procedure of
payments to qualified city or
town, §24-11-303.

Tax levy, §24-11-403.

Cities of first and second class,
§24-11-404.

Treasurer.

Bonds, surety, §24-11-408.

Custodian of fund, §24-11-408.

Vacation pay, §24-11-429.

Vesting rights policy.

Optional vesting rights policy,
§24-11-426.

Voluntary retirement.

Benefits, §24-11-422.

Vote required to make act effective,
§24-11-402.Form of question on ballot,
§24-11-402.

Petition to submit, §24-11-402.

When submitted, §24-11-402.

Warrants for payment of money.

Payments from fund, §24-11-411.

Withdrawal of accumulated
contributions, §24-11-426.**Policemen's pension supplement
program, §24-11-211.**

Future supplement fund, §24-11-212.

Records.

Firemen's relief and pension fund.

Board of trustees.

Records of proceedings, §24-11-802.

Pension and relief fund for paid
nonuniformed employees.

Board of trustees.

Record of proceedings, §24-12-105.

MUNICIPAL CORPORATIONS

—Cont'd

Records —Cont'd

Policemen's pension and relief funds,
§24-11-407.

List of retired policemen.

Data kept in record, §24-11-407.

Reports.

Firemen's relief and pension fund.

Board of trustees, §24-11-801.

Pension and relief fund for paid
nonuniformed employees.

Condition of fund, §24-12-113.

Pensions.

Disclosure of condition of pension.

General provisions, §§24-11-201 to
24-11-208. See within this
heading, "Pensions."

Policemen's pension and relief funds.

Condition of fund, §24-11-412.

Policemen's pension and relief funds.

Board of trustees.

Condition of fund, §24-11-412.

Retirement.

Cities of the second class.

Mayors, §24-12-124.

Municipal health care plan.

Limitation on benefits provided by
acts 1997, §24-12-130.

Participation by retired officials and
employees, §24-12-129.

Rules and regulations.

Firemen's relief and pension fund.

Board of trustees, §24-11-803.

Power to make, §24-11-801.

Policemen's pension and relief funds.

Board of trustees, §24-11-405.

Salaries.

Firemen's relief and pension fund.

Deductions from salary, §24-11-816.

Administration of funds,
§24-11-816.

Failure to allow deductions,
§24-11-816.

Refund upon resignation or
discharge, §24-11-816.

Use of deductions, §24-11-816.

Second-class cities.

Attorneys at law.

City attorneys.

Retirement benefits, §24-12-120.

City recorders.

Recorder-treasurer.

Retirement, §24-12-127.

City treasurers.

Recorder-treasurer.

Retirement, §24-12-127.

Retirement, §24-12-127.

MUNICIPAL CORPORATIONS

—Cont'd

Second-class cities —Cont'd

Mayors.

Retirement.

Benefits, §24-12-124.

Continuation of benefits of
retired mayors, §24-12-124.

Eligibility, §24-12-124.

Continuation of benefits of retired
mayors, §24-12-124.

Recorder-treasurer.

Retirement, §24-12-127.

Retirement.

City recorders.

Recorder-treasurer, §24-12-127.

City treasurers.

Recorder-treasurer, §24-12-127.

Mayors, §24-12-124.

Taxation.

Firemen's relief and pension fund.

Levy of tax to pay pensions,
§24-11-812.

Pension and relief fund for paid
nonuniformed employees.

Tax levy to support fund, §24-12-104.

Policemen's pension and relief funds.

Tax levy, §24-11-403.

Cities of first and second class,
§24-11-404.

Treasurers.

Pension and relief fund for paid
nonuniformed employees.

Bonds, surety, §24-12-107.

Custodian of fund, §24-12-107.

Warrants for payment of money.

Policemen's pension and relief funds.

Payments from fund, §24-11-411.

Witnesses.

Firemen's relief and pension fund.

Testimony of witnesses, §24-11-803.

N**NATURAL AND CULTURAL
HERITAGE.****Department of Arkansas heritage.**

General provisions, §§25-3-101 to
25-3-108.

See ARKANSAS HERITAGE
DEPARTMENT.

NOTICE.**Administrative procedure.**

Adjudication, §25-15-208.

Licenses.

Proceedings as to, §25-15-211.

NOTICE —Cont'd**Administrative procedure —Cont'd**

Rules and regulations.

Adoption, §25-15-204.

Freedom of information.Notice of request for records,
§25-19-105.**State institutions.**

Honorary boards of management.

Removal of member for absence from
meetings, §25-17-211.**Youth services.**Privatizing functions or
responsibilities, §25-10-136.**O****OATHS.****Administrative procedure.**

Interpreters, §25-15-101.

Attorney general.

Administration of oaths, §25-16-705.

Auditor of state.

Deputy.

Oath of office, §25-16-504.

Power to administer, §25-16-507.

Commissioners in other states.

Oath of office, §25-16-204.

Power to administer oaths, §25-16-204.

Validity of oaths administered by,
§25-16-204.**Secretary of state.**

Deputy.

Oath of office, §25-16-402.

State institutions.Honorary boards of management,
§25-17-207.**Treasurer of state.**

Deputy.

Oath of office, §25-16-603.

Power to administer, §25-16-606.

OPHTHALMIC DISPENSERS.**Board of dispensing opticians.**

Subpoenas.

Power to issue subpoenas,
§25-15-104.**P****PAPER REDUCTION, §§25-1-201 to
25-1-206.****Budgets, §25-1-204.****Copies filed with Legislative
Council, §25-1-205.****Definitions, §25-1-206.****Distribution of publications,
§§25-1-202 to 25-1-204.****PAPER REDUCTION —Cont'd****Filing of copies with Legislative
Council, §25-1-205.****Intention of General Assembly,
§25-1-201.****Legislative intent, §25-1-201.****Publications, distribution of,
§25-1-203.**

Budgets, §25-1-204.

Reports, §25-1-202.

State agency, defined, §25-1-206.**PARKS AND RECREATION.****Department of parks and tourism.**

Creation, §25-13-101.

Director, §25-13-101.

Divisions, §25-13-101.

Employees, extra help.

Restrictions, §25-13-104.

Expenditures for service charges,
§25-13-103.

Extra help restrictions, §25-13-104.

Gratuities.

Use of hotels and restaurants for
conventions, etc.Authorized to pay reasonable
charges of involuntary
gratuities, §25-13-103.

Great River Road division, §25-13-102.

Mississippi river parkway commission.

Location in Great River Road
division, §25-13-102.State parks, recreation and travel
commission.Transfer of functions, powers and
duties to department, §25-13-101.

Tips.

Use of hotels and restaurants for
conventions, etc.

Involuntary gratuities.

Authorized to pay reasonable
charges of, §25-13-103.

Transfers to department, §25-13-101.

Using services of hotels, restaurants,
etc.Payment of service charges,
§25-13-103.**PARTIES.****Administrative procedure.**

General assembly.

Stay of proceedings where party or
attorney is member or employee
of general assembly, §25-15-103.**PENSIONS.****Fire protection districts.**Firemen's relief and pension fund,
§24-11-824.

PERSONAL PROPERTY.**Finance and administration department.**

Marketing and redistribution of state personal property, §25-8-106.

PERSONNEL.**Finance and administration department.**

Office of personnel management.
Generally, §25-8-103.

PETITIONS.**Municipal corporations.**

Policemen's pension and relief funds.
Vote required to make act effective.
Petitions to submit, §24-11-102.

PLUMBERS.**Board.**

Subpoena powers, §25-15-104.

POLICE.**Municipal corporations.**

Policemen's pension and relief fund.
Generally, §§24-11-401 to 24-11-438.
See MUNICIPAL CORPORATIONS.

Policemen's pension and relief fund.

Municipal corporations, §§24-11-401 to 24-11-438.

See MUNICIPAL CORPORATIONS.

Retirement.

Local police and fire retirement system, §§24-10-101 to 24-10-618.
See LOCAL POLICE AND FIRE RETIREMENT SYSTEM.

POLICEMEN'S PENSION AND

RELIEF FUNDS, §§24-11-401 to 24-11-438.

POLLUTION.**Department of environmental quality.**

Creation, §25-14-101.
Director, §25-14-101.
Divisions, §25-14-101.
Generally, §25-14-101.
Hazardous duty compensation, §25-14-102.

PRINTING.**Arkansas heritage department.**

Restriction on printing expenditures, §25-3-107.

PRISON TERMS.**State institution board members.**

Oath required, §25-17-207.

State officers.

Failure to serve subpoenas, §25-16-705.

PROCUREMENT.**Blind persons.**

Information technology access, §25-26-204.

PROPERTY.**State institutions.**

Regulation of property.
Applicability of provisions, §25-17-302.
Cumulative nature of provisions, §25-17-302.
Definitions, §25-17-301.
Enforcement of provisions, §25-17-303.
Motor vehicles.
Rules and regulations for motor vehicles on institutional grounds, §25-17-307.
Security officers.
Appointment, §25-17-304.
Duties and powers, §25-17-305.
Liability.
Exemption from personal liability, §25-17-306.
Removal, §25-17-304.

PROSECUTING ATTORNEYS.**Attorney general.**

Opinions of attorney general.
Giving opinion to prosecutor, §25-16-706.

PUBLICATION.**Arkansas heritage.**

Department.
Fees for publications, seminars, etc., §25-3-105.

Funds.

Publication, development and resale revolving fund, §25-3-106.

Sales of publications.

Disposition of proceeds into publication, development and resale development fund, §25-3-106.

Deaf persons.

State publications.
References to deaf persons, §25-18-222.

General assembly.

Acts of legislature, §25-18-225.
Certificate of correctness, §25-18-205.
Compensation for copying and indexing acts, §25-18-205.
Delivery by officers to successors, §25-18-207.
Municipal judges, §25-18-207.

PUBLICATION —Cont'd**General assembly —Cont'd**

Acts of legislature —Cont'd

Distribution.

Counties, §25-18-206.

Free distribution to certain officers,
§25-18-206.

Justices of the peace, §25-18-206.

Library of congress, §25-18-220.

Municipal judges, §§25-18-206,
25-18-207.Exchange of books with other states
and countries, §25-18-220.

Index to acts, §25-18-205.

Lost or destroyed books.

Replacement, §25-18-208.

Penalties.

Failure to deliver books to
successors, §25-18-207.

Municipal judges, §25-18-207.

Printing, §25-18-205.

Sale price, §25-18-209.

Digest.

Mansfield's digest.

Sale price, §25-18-209.

Journal of proceedings of legislature.

Time for publication and
distribution, §25-18-204.Law Library Association, Inc., Shelby
County, Tennessee.Distribution of proceedings of
legislature to, §25-18-221.Messages, reports and other
documents ordered to be printed by
legislature.

Covers, §25-18-203.

Number of copies, §25-18-202.

Title pages, §25-18-203.

Opinions, quasi judicial, §25-18-224.**Orders, quasi judicial, §25-18-224.****Penalties.**

General assembly.

Acts of legislature.

Failure of officers to deliver to
successors, §25-18-207.**Quasi judicial opinions and orders,
§25-18-224.****Secretary of state.**

Bound book report, §25-18-223.

State of Arkansas.Messages, reports and other
documents.Covers and title pages,
§25-18-203.

Number of copies, §25-18-202.

PUBLICATION —Cont'd**Universities and colleges.**

Libraries.

Furnishing state and subdivision
publications to.Designated as depositories,
§25-18-306.

Procedure, §25-18-307.

University of Arkansas.

General library.

Federal publications to be furnished,
§25-18-305.State depository for public
documents, §25-18-301.Furnishing of publications to
library, §§25-18-302,
25-18-303.County and municipal
governments, §25-18-304.**PUBLIC EMPLOYEES'****RETIREMENT SYSTEM.****Local police and fire retirement
system.**

Credited service.

Membership in local police and fire
retirement system, §24-10-505.**Membership.**Cities with population less than
50,000.Option to participate in retirement
system, §24-12-126.**Municipalities.**

Participation in system.

Cities with population less than
50,000.Option to participate,
§24-12-126.**PUBLIC OFFICERS AND
EMPLOYEES.****Bonds, surety.**

Secretary of state, §25-16-401.

**Commissioners in other states,
§25-16-204.****Commissions.**

Blanks for officer's commissions.

Auditor of state.

Furnishing, §25-16-508.

Possession by officer other than
state auditor.

Penalty, §25-16-508.

**Employee evaluation or job
performance.**

Freedom of information.

Availability to employee or
designated representative,
§25-19-105.

PUBLIC OFFICERS AND EMPLOYEES —Cont'd**Employee evaluation or job performance —Cont'd**

Freedom of information —Cont'd
Records deemed public records,
§25-19-105.

Freedom of information.

Employee evaluation or job performance.
Records deemed public records,
§25-19-105.

Personnel records disclosure.

Invasion of personal privacy.
Availability of records to employee or designated representative,
§25-19-105.

Records deemed not public records,
§25-19-105.

Income withholding.

Retirement systems.
Local police and fire retirement system.
Members' contributions,
§24-10-404.

Job performance evaluations.

Availability to employee or designated representative, §25-19-105.
Freedom of information.
Records deemed public records,
§25-19-105.

Records.

Employee evaluation or job performance.
Freedom of information.
Records deemed public records,
§25-19-105.

Freedom of information.

Availability to employee or designated representative,
§25-19-105.

Personnel records disclosure.
Invasion of personal privacy.
Records deemed not public records, §25-19-105.

Job performance evaluations.

Availability to employee or designated representative,
§25-19-105.

Freedom of information.
Records deemed public records,
§25-19-105.

Personnel records disclosure.
Invasion of personal privacy.
Availability of records to employee or designated representative,
§25-19-105.

PUBLIC RECORDS.**Freedom of information.**

General provisions, §§25-19-101 to 25-19-109.

See FREEDOM OF INFORMATION.

General provisions, §§25-18-101 to 25-18-308.

See RECORDS.

PUBLIC SERVICE COMMISSION.**Assessment coordination division.**

Transfer to assessment coordination department, §25-28-102.

Q**QUO WARRANTO.****Attorney general.**

Power to issue writ, §25-16-704.

R**RACIAL MINORITIES.****Office of minority mental health,**

§§25-10-122 to 25-10-134.

See HUMAN SERVICES DEPARTMENT.

RECORDS.**Administrative procedure.**

Adjudication, §25-15-208.

Adoption.

Freedom of information.
Records deemed not public records,
§25-19-105.

Archeological survey.

Freedom of information.
Site files and records.
Records deemed not public records,
§25-19-105.

Attorney general.

Freedom of information.
Unpublished memoranda, working papers, etc.
Records deemed not public records,
§25-19-105.

Auditor of state.

Register of bank fund checks,
§25-16-511.

Compromise and settlement.

Public records.
Litigation settlement agreements,
§§25-18-401 to 25-18-403.
Disclosure requirements,
§25-18-401.
Inapplicability of subchapter,
§25-18-402.
Violations as misdemeanors,
§25-18-403.

RECORDS —Cont'd**Copies.**

Public records.

Facsimile copies.

Fee for facsimile copy, §25-18-103.

Reproduction of records generally,
§25-18-101.

Electronic records and signatures.

Electronic transactions generally,
§§25-32-101 to 25-32-120.

Generally, §§25-31-101 to 25-31-105.

See ELECTRONIC RECORDS AND
SIGNATURES.

Fees.

Public records.

Reproduction of records.

Facsimile copy fee, §25-18-103.

**Finance and administration
department.**

Access to agency records, §25-1-104.

Freedom of information act.

General provisions, §§25-19-101 to
25-19-109.

See FREEDOM OF INFORMATION.

Public records.

Defined, §25-19-103.

Examination and copying,
§25-19-105.

General assembly.

Freedom of information.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Governor.

Freedom of information.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Historical preservation program.

Freedom of information.

Site files and records.

Records deemed not public records,
§25-19-105.

Income tax.

Freedom of information.

State income tax records.

Records deemed not public records,
§25-19-105.

Insurance.

State departments and agencies.

Inspection of records, §25-1-103.

Litigation settlement agreements.

Public records, §§25-18-401 to
25-18-403.

**Local police and fire retirement
system.**

Board of trustees, §24-10-205.

RECORDS —Cont'd**Misdemeanors.**

Litigation settlement agreements.

Violations of subchapter, §25-18-403.

Municipal corporations.

Firemen's relief and pension fund.

Board of trustees.

Records of proceedings, §24-11-802.

Pension and relief fund for paid
nonuniformed employees.

Board of trustees.

Record of proceedings, §24-12-105.

Policemen's pension and relief funds,
§24-11-407.

Penalties.

Litigation settlement agreements.

Violations of subchapter, §25-18-403.

Public officers and employees.

Employee evaluation or job
performance.

Freedom of information.

Records deemed public records,
§25-19-105.

Freedom of information.

Availability to employee or
designated representative,
§25-19-105.

Personnel records disclosure.

Invasion of personal privacy.

Records deemed not public
records, §25-19-105.

Job performance evaluations.

Availability to employee or
designated representative,
§25-19-105.

Freedom of information.

Records deemed public records,
§25-19-105.

Personnel records disclosure.

Invasion of personal privacy.

Availability of records to employee
or designated representative,
§25-19-105.

Public records.

Depositories for public records.

County and municipal publications.

Forwarding to depository,
§25-18-304.

Furnishing to state library,
§25-18-308.

Procedure to obtain, §25-18-307.

Designation of official state
depository, §25-18-301.

Federal publications.

Forwarding to depository,
§25-18-305.

Municipal publications.

Forwarding to depository,
§25-18-304.

RECORDS —Cont'd**Public records —Cont'd**

- Depositories for public records —Cont'd
 - Municipal publications —Cont'd
 - Furnishing to state library, §25-18-308.
 - Procedure to obtain, §25-18-307.
 - Partial depositories.
 - Designation, §25-18-306.
 - Printing.
 - Payment for printing, §25-18-303.
 - Selective and partial depositories.
 - Designation, §25-18-306.
 - Procedure to obtain state and local publications, §25-18-307.
 - State library.
 - State and local publications furnished to state library, §25-18-308.
 - State publications.
 - Forwarding to depository, §25-18-302.
 - Furnishing to state library, §25-18-308.
 - Procedure to obtain, §25-18-307.
 - United States.
 - Forwarding federal publications to depository, §25-18-305.
 - University of Arkansas.
 - Library.
 - Mullins Library designated official state depository, §25-18-301.
- Facsimile copies.
 - Fee, §25-18-103.
- Freedom of information.
 - Defined, §25-19-103.
 - Examination and copying, §25-19-105.
 - General provisions, §§25-19-101 to 25-19-109.
 - See FREEDOM OF INFORMATION.
- Litigation settlement agreements, §§25-18-401 to 25-18-403.
- Disclosure requirements, §25-18-401.
- Inapplicability of subchapter, §25-18-402.
- Violations as misdemeanors, §25-18-403.
- Microfilming records.
 - Secretary of state, §25-18-102.
- Reproduction of records, §25-18-101.
- Fee for facsimile copies, §25-18-103.
- State publications.
 - Deaf people.
 - References to deaf people, §25-18-222.

RECORDS —Cont'd**Public records —Cont'd**

- State publications —Cont'd
 - Depositories for public records.
 - Furnishing state publications to official state depository, §25-18-302.
 - Furnishing state publications to state library, §25-18-308.
 - Procedure to obtain state publications, §25-18-307.
 - Digests, acts and journals.
 - Annual settlement, §25-18-207.
 - Delivery to successors, §25-18-207.
 - Distribution, §25-18-206.
 - Price of digests and acts, §25-18-209.
 - Sale of digests and acts, §25-18-209.
 - Exchange of books with federal, state and foreign entities, §25-18-220.
 - General assembly.
 - Acts of general assembly, §25-18-205.
 - Annual settlement, §25-18-207.
 - Delivery to successors, §25-18-207.
 - Distribution, §25-18-206.
 - Lost or destroyed books, §25-18-208.
 - Price, §25-18-209.
 - Sale, §25-18-209.
 - Journals of legislative proceedings, §25-18-204.
 - Annual settlement, §25-18-207.
 - Delivery to successors, §25-18-207.
 - Distribution, §25-18-206.
 - Lost or destroyed books, §25-18-208.
 - Law Library Association, Inc., Shelby County, Tennessee.
 - Distribution of reports and proceedings of general assembly to law library association, §25-18-221.
 - Messages, reports and other documents.
 - Covers and title pages, §25-18-203.
 - Number of copies, §25-18-202.
 - Secretary of state.
 - Bound book report, §25-18-223.
 - Supreme court reports.
 - Clerks of court.
 - Annual check of offices, §25-18-213.
 - Duties of clerks, §25-18-212.

RECORDS —Cont'd**Public records —Cont'd**

State publications —Cont'd

Supreme court reports —Cont'd

Clerks of court —Cont'd

Replacement of missing books by
circuit clerk, §25-18-214.

County libraries.

Annual check, §25-18-213.

Destroyed volumes.

Replacement, §25-18-215.

Distribution, §25-18-210.

Expense of distribution,
§25-18-217.

Justices of supreme court.

Additional set for supreme court
justices, §25-18-211.Number of copies reserved,
§25-18-216.

Price, §25-18-218.

Size, §25-18-218.

Secretary of state.

Copies.

Fee for facsimile copies of state
records, §25-18-103.

Microfilming state records, §25-18-102.

State departments and agencies.Department of finance and
administration.

Access to agency records, §25-1-104.

Insurance.

Inspection of records, §25-1-103.

Universities and colleges.

Scholastic records.

Freedom of information.

Records deemed not public records,
§25-19-105.**University of Arkansas.**

Depository for public records,

§§25-18-301 to 25-18-308.

See UNIVERSITY OF ARKANSAS.

RECYCLING.**Computer recycling and electronic
solid waste**, §§25-34-101 to
25-34-111.**State departments and agencies.**Computer recycling and electronic
solid waste, §§25-34-101 to
25-34-111.**REHABILITATION SERVICES,**

§§25-30-201 to 25-30-205.

Duties, §25-30-203.**Eligibility for retirement systems**,
§25-30-204.**Generally**, §25-30-201.**Office facilities**, §25-30-205.**Policy**, §25-30-201.**REHABILITATION SERVICES**

—Cont'd

Powers, §25-30-203.**Retirement**, §25-30-204.**Scope**, §25-30-202.**REPAIRS.****Charities.**

Damages to charitable institution.

Board of trustees.

Authorized to borrow money,
§25-17-103.**State institutions.**

Damages to charitable institution.

Board of trustees authorized to
borrow money to repair,
§25-17-103.**REPORTS.****Arkansas heritage department.**

Heritage foundation.

Amount and source of gifts, grants
and donations, §25-3-108.**Auditor of state.**

Biennial report of auditor, §25-16-513.

General assembly.

Joint committee to examine books,
§25-16-512.Quarterly report to governor,
§§21-7-302, 25-16-514.

Warrants for payment of money.

Report to treasurer of amount of
warrants drawn, §25-16-515.**Deaf and hearing impaired
telecommunications services
corporation.**

Annual report, §25-29-110.

**Finance and administration
department.**

Revenue division.

Child support enforcement program,
§25-10-118.**Governor.**State auditor to report to governor,
§25-16-203.

State treasurer.

Report to governor, §25-16-203.

Human services department.

Divisions, §25-10-107.

Interlocal cooperation.

Waterworks.

Report of activities, §25-20-321.

**Local police and fire retirement
system.**

Board of trustees, §24-10-205.

Paper reduction, §25-1-202.**State departments and agencies.**Grants in excess of certain amount,
§25-1-108.

REPORTS —Cont'd**State departments and agencies**
—Cont'd

Transfers of agencies, §25-2-108.

Treasurer of state.

Biennial report, §25-16-610.

Holford bonds not reported as
indebtedness of state, §25-16-610.Joint legislative committee to examine
books, §25-16-615.Quarterly report to governor on notes
and money from sale of state
lands, §25-16-611.**RETIREMENT.****Definitions.**Local police and fire retirement
system, §24-10-102.**Fire prevention.**Local police and fire retirement
system, §§24-10-101 to 24-10-618.See LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.**Local police and fire retirement**
system, §§24-10-101 to 24-10-618.See LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.**Municipal corporations.**Pension and relief fund for paid
nonuniformed employees.General provisions, §§24-12-101 to
24-12-118.See MUNICIPAL
CORPORATIONS.

Second class cities.

Mayors, §24-12-124.

Police.Local police and fire retirement
system, §§24-10-101 to 24-10-618.See LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.**Public officers and employees.**Local police and fire retirement
system, §§24-10-101 to 24-10-618.See LOCAL POLICE AND FIRE
RETIREMENT SYSTEM.**S****SALARIES.****Governor.**

Transition funds.

Not to be used to pay salary,
§25-16-205.**SALES.****Supreme court reports.**

Price, §25-18-218.

SEALS AND SEALED
INSTRUMENTS.**Auditor of state.**

Seal of office, §25-16-503.

Secretary of state.

Affixation of seal of state, §25-16-403.

Seal of office, §25-16-403.

Treasurer of state.

Seal of office, §25-16-602.

SECRETARY OF STATE.**Arkansas ambassador's certificates,**
§25-16-405.**Arkansas register.**

Duties as to, §25-15-205.

Attestation of official act, §25-16-403.**Bonds, surety, §25-16-401.****Bound book report.**

Publication, §25-18-223.

Copies.

Official papers, §25-16-403.

Records.

Facsimile copies of state records.

Fee, §25-18-103.

Corporation clerk.

Deputy secretary of state, §25-16-402.

Deputy.

Appointment, §25-16-402.

Corporation clerk made deputy,
§25-16-402.

Duties, §25-16-402.

Oath of office, §25-16-402.

Fees.

Copies.

Facsimile copies of state records,
§25-18-103.**General assembly.**

Acts of general assembly.

Exchange of books with federal, state
and foreign entities, §25-18-220.

Records.

Custodian of records of general
assembly, §25-16-403.**Microfilm.**

State records, §25-18-102.

Oaths.

Deputy.

Oath of office, §25-16-402.

Publication.

Bound book report, §25-18-223.

State departments and divisions.

Publications furnished to secretary of
state, §25-18-308.**Records.**

Copies.

Fee for facsimile copies of state
records, §25-18-103.

Microfilming state records, §25-18-102.

SECRETARY OF STATE —Cont'd**Salary**, §25-16-101.**Seals and sealed instruments.**

Affixation of seal of state, §25-16-403.

Seal of office, §25-16-403.

SERVICE OF PROCESS.**Attorney general.**Subpoenas of attorney general,
§25-16-705.**SIGNATURES.****Electronic records and signatures****generally**, §§25-31-101 to 25-31-105.See ELECTRONIC RECORDS AND
SIGNATURES.**Electronic transactions generally,**

§§25-32-101 to 25-32-120.

SOCIAL WORKERS.**Licensing board.**

Subpoena powers, §25-15-104.

SOLID WASTE DISPOSAL.**Computer recycling and electronic****solid waste**, §§25-34-101 to
25-34-111.**State departments and agencies.**Computer recycling and electronic
solid waste, §§25-34-101 to
25-34-111.**STATE DEPARTMENTS AND
AGENCIES.****Administration.**Department of finance and
administration, §§25-8-101 to
25-8-108.See FINANCE AND
ADMINISTRATION
DEPARTMENT.**Administrative procedure.**General provisions, §§25-15-101 to
25-15-214.See ADMINISTRATIVE
PROCEDURE.**Arkansas heritage.**Department of Arkansas heritage,
§§25-3-101 to 25-3-108.See ARKANSAS HERITAGE
DEPARTMENT.**Assessment coordination****department**, §§25-28-101 to
25-28-107.**Attorney general.**Representation of state agencies and
officers, §25-16-702.Employment of outside counsel,
§25-16-702.**STATE DEPARTMENTS AND
AGENCIES —Cont'd****Chief information officers.**

Appeals by agencies, §25-33-107.

CIO council, §25-33-105.

Definitions, §25-33-102.

Executive chief information officer.

Creation of position, §25-33-103.

Powers and duties, §25-33-104.

Information technology oversight
committee, §25-33-106.

Legislative purpose, §25-33-101.

Cigarettes and tobacco products.

Smoking.

Promulgation of smoking policy,
§25-1-102.**CIO council**, §25-33-105.**Computer recycling and electronic****solid waste**, §§25-34-101 to
25-34-111.**Definitions.**

Transfer of department, agency, etc.

Type 1 transfers, §25-2-104.

Type 2 transfers, §25-2-105.

Type 3 transfers, §25-2-106.

Type 4 transfers, §25-2-107.

Education.Department of education, §§25-6-101,
25-6-102.**Exceptions to provisions.**Certain orders, rules, regulations and
standards, §25-2-103.

Healing arts.

Licensing boards, §25-2-102.

Finance.Department of finance and
administration, §§25-8-101 to
25-8-108.See FINANCE AND
ADMINISTRATION
DEPARTMENT.**Funds.**Violence against persons,
administration, §§25-1-107,
25-1-111.**Governor.**Reorganization of agencies to meet
federal program requirements,
§25-16-201.**Grants, aids and donations.**Reports to legislative council,
§25-1-108.**Healing arts.**

Licensing boards.

Exemption from provisions,
§25-2-102.

STATE DEPARTMENTS AND AGENCIES —Cont'd**Human services department.**

Blind persons.

Division of state services for the blind, §§25-10-201 to 25-10-207.

See HUMAN SERVICES DEPARTMENT.

Generally, §§25-10-101 to 25-10-133.

See HUMAN SERVICES DEPARTMENT.

Office of minority mental health, §§25-10-122 to 25-10-133.

See HUMAN SERVICES DEPARTMENT.

Information.

Providing department of finance and administration, §25-1-104.

Information technology oversight committee, §25-33-106.**Interlocal cooperation.**

General provisions, §§25-20-101 to 25-20-108.

See INTERLOCAL COOPERATION.

Legislative declaration, §25-2-101.**Motor vehicles.**

State owned motor vehicles.

Cost effectiveness, §25-1-110.

Open public meetings, §25-19-106.**Opinions and orders.**

Distribution, §25-18-224.

Paper reduction, §§25-1-201 to 25-1-206.

See PAPER REDUCTION.

Parks and recreation.

Department of parks and tourism, §§25-13-101 to 25-13-104.

See PARKS AND RECREATION.

Publications.

Quasi judicial opinions and orders, §25-18-224.

Secretary of state.

Publications furnished to secretary of state, §25-18-308.

Public service announcements.

Captioning on television, §25-1-109.

Purpose of provisions, §25-2-101.**Records.**

Department of finance and administration.

Access to agency records, §25-1-104.

Insurance.

Inspection of records, §25-1-103.

Reports.

Transfers of agencies, §25-2-108.

Sunshine law, §25-19-106.**Televised public service announcements.**

Captioning, §25-1-109.

STATE DEPARTMENTS AND AGENCIES —Cont'd**Tourism.**

Department of parks and tourism, §§25-13-101 to 25-13-104.

See PARKS AND RECREATION.

Transfers.

Effect.

Certain orders, rules, regulations and standards, §25-2-103.

Reports, certifications, applications or requests, §25-2-108.

Purpose of provisions, §25-2-101.

Type 1 transfers, §25-2-104.

Type 2 transfers, §25-2-105.

Type 3 transfers, §25-2-106.

Type 4 transfers, §25-2-107.

Violence against persons, funds.

Administration generally, §25-1-107.

Designation of agency to administer, §25-1-111.

STATE INSTITUTIONS.**Affidavits.**

Claims.

Presenting of claims, §25-17-102.

Arrest.

Security officers.

Powers, §25-17-305.

Claims.

Allowance of claims.

Appropriation as prerequisite to payment, §25-17-102.

Claims not conforming with law.

Allowance prohibited, §25-17-102.

Greater amount than due.

Prohibited, §25-17-102.

Witnesses.

Examination, §25-17-102.

Presenting of claims.

Itemized account required, §25-17-102.

Method, §25-17-102.

Construction and interpretation.

Property.

Regulation of property.

Cumulative nature of provisions, §25-17-302.

Corrections.

Board of correction.

Honorary boards of management.

General provisions, §§25-17-201 to 25-17-211. See within this heading, "Honorary boards of management."

Definitions.

Property.

Regulation of property, §25-17-301.

STATE INSTITUTIONS —Cont'd**Honorary boards of management.**

Appointment of members, §25-17-204.

Blind persons.

School for the blind.

Board of trustees of school for the blind to contain one blind person, §25-17-205.

Creation, §25-17-201.

Deaf persons.

School for the deaf.

Board of trustees to contain one deaf person, §25-17-205.

Duties, §25-17-202.

Eligibility for membership, §25-17-203.

Established, §25-17-201.

Meetings.

Absence of member.

Grounds for removal, §25-17-211.

Generally, §25-17-208.

Open meetings, §25-17-208.

Members.

Absence of member from meetings.

Grounds for removal, §25-17-211.

Appointment and terms, §25-17-204.

Eligibility for membership,
§25-17-203.

Oath, §25-17-207.

Removal of members, §25-17-210.

Absence of member from meeting
as grounds for removal,
§25-17-211.

Oath of members, §25-17-207.

Powers, §25-17-202.

Removal of members.

Absence from meeting as grounds,
§25-17-211.

Procedure, §25-17-210.

Terms of members, §25-17-204.

Motor vehicles.

Applicability of provisions, §25-17-302.

Rules and regulations, §25-17-307.

Recordation and filing, §25-17-307.

Violations, §25-17-307.

Fines.

Disposition, §25-17-303.

Prosecution, §25-17-303.

Speed limits.

Posting, §25-17-307.

Rules and regulations, §25-17-307.

Oaths.

Honorary boards of management,
§25-17-207.

Property.

Regulation of property.

Applicability of provisions,
§25-17-302.

STATE INSTITUTIONS —Cont'd**Property —Cont'd**

Regulation of property —Cont'd

Cumulative nature of provisions,
§25-17-302.

Definitions, §25-17-301.

Enforcement of provisions,
§25-17-303.

Motor vehicles.

Rules and regulations for motor
vehicles on institutional
grounds, §25-17-307.

Security officers.

Appointment, §25-17-304.

Duties and powers, §25-17-305.

Liability.

Exemption from personal
liability, §25-17-306.

Removal, §25-17-304.

Repairs.

Damages to charitable institution.

Board of trustees authorized to
borrow money to repair,
§25-17-103.

Rules and regulations.

Motor vehicles, §25-17-307.

Property.

Regulation of property.

Motor vehicles on institutional
grounds, §25-17-307.

Security officers.

Applicability of provisions, §25-17-302.

Arrest.

Powers, §25-17-305.

Duties, §25-17-305.

Liability.

Exemption from personal liability
under act, §25-17-306.

Personal liability.

Exemption, §25-17-306.

Police supervision, §25-17-305.

Powers, §25-17-305.

Trespass.

Applicability of provisions, §25-17-302.

Fines.

Disposition, §25-17-303.

Prosecution of actions, §25-17-303.

Witnesses.

Claims.

Allowance of claims.

Examination of witnesses,
§25-17-102.

STATE LANDS.**Commissioner of state lands.**

Compensation, §25-16-101.

Salary, §25-16-101.

STATE LANDS —Cont'd**Human services department.**

Proceeds from sale of land.

Deposit in special trust fund,
§25-10-121.

STATE LIBRARY.**State and local publications
furnished to state library,**
§25-18-308.**Universities and colleges.**

Depositories for public records.

Procedure to obtain state and local
publications.

State library to furnish,
§25-18-307.

STATE OF ARKANSAS.**Administrative procedure.**

General provisions, §§25-15-101 to
25-15-214.

See ADMINISTRATIVE
PROCEDURE.

Attorney general.

Real property bought by state.

Examination of abstract, §25-16-706.

Representation of state interests in
federal courts, §25-16-703.

Publication.

Messages, reports and other
documents.

Covers and title pages, §25-18-203.

Number of copies, §25-18-202.

Seat of government.

Emergency temporary location.

Applicability of provisions, §25-1-101.

Generally, §25-1-101.

Validation of acts performed at,
§25-1-101.

STATES' RIGHTS.**Federal encroachment, §§25-21-101 to
25-21-106.**

See FEDERAL ENCROACHMENT ON
STATE RIGHTS.

STATUTES.**Publication and distribution of acts,**
§25-18-225.**STAYS.****Administrative procedure.**

General assembly.

Stay of proceedings where party or
attorney is member or employee
of general assembly, §25-15-103.

SUBPOENAS.**Administrative procedure.**

Adjudication, §25-15-213.

SUBPOENAS —Cont'd**Attorney general.**

Failure of witness to appear.

Citation, §25-16-705.

Penalty, §25-16-705.

Form, §25-16-705.

Power of attorney general, §25-16-705.

Service, §25-16-705.

Failure of officer to serve.

Penalty, §25-16-705.

Forms.

Attorney general, §25-16-705.

SUMMONS AND PROCESS.**Municipal corporations.**

Policemen's pension and relief funds.

Money not subject to process,
§24-11-417.

SUNSHINE LAW, §25-19-106.**SUPPORT AND MAINTENANCE.****Finance and administration
department.**

Revenue division.

Child support enforcement program
reports, §25-10-118.

SUPREME COURT.**Attorney general.**

Attendance, §25-16-704.

Failure to attend.

Substitute appointed by court,
§25-16-704.

Chief justice.

Freedom of information.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Freedom of information.

Justices.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Justices.

Freedom of information.

Unpublished memoranda, working
papers, etc.

Records deemed not public records,
§25-19-105.

Supreme court reports.

Additional set for supreme court
justices, §25-18-211.

SUPREME COURT REPORTS.**Administrative office of the courts.**

Distribution, §25-18-210.

Expense of distribution, §25-18-217.

SUPREME COURT REPORTS

—Cont'd

Administrative office of the courts

—Cont'd

Exchange of books with other states and counties, §25-18-220.

Number of copies reserved by, §25-18-216.

Clerks of court.

Circuit court clerks.

Annual check of offices of clerk, §25-18-213.

Duties of clerks, §25-18-212.

Missing books.

Replacement by clerk, §25-18-214.

Distribution, §25-18-210.

Expenses, §25-18-217.

Exchange of books with other states and countries, §25-18-220.**Justices of supreme court.**

Additional set for supreme court justices, §25-18-211.

Law libraries.

Annual check of county law libraries, §25-18-213.

Destroyed volumes.

Replacement of destroyed volumes, §25-18-215.

Law Library Association, Inc., Shelby County, Tennessee.

Distribution of report to, §25-18-221.

Number of copies reserved, §25-18-216.**Price, §25-18-218.****Sales.**

Price, §25-18-218.

Size, §25-18-218.**SURVIVING SPOUSES.****Local police and fire retirement system.**

Death annuities, §§24-10-608 to 24-10-610.

T**TAXATION.****Exemptions from taxation.**

Interlocal cooperation.

Waterworks, §25-20-317.

Insurance.

Fire and police pension review board.

Administrative and actuarial expenses, §24-11-301.

Foreign insurance companies.

Fire and police pension review board.

Administrative and actuarial expenses, §24-11-301.

TAXATION —Cont'd**Insurance —Cont'd**

Foreign insurance companies —Cont'd

Police officer's pension and relief funds.

Appropriations, §24-11-301.

Police officer's pension and relief funds.

Appropriation of tax revenues, §24-11-301.

Cities and towns qualified to participate in distribution of tax revenues, §24-11-302.

Timing and procedure of payments to qualified city or town, §24-11-303.

Interlocal cooperation.

Waterworks.

Tax exemptions, §25-20-317.

Local police and fire retirement system.

Exemption of benefits, §24-10-103.

TEACHERS.**Auditor of state.**

Blanks for teachers' licenses, §25-16-508.

TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY.**Deaf and hearing impaired**

telecommunications services corporation, §§25-29-101 to 25-29-112.

Information network.

Board, §25-27-103.

Citation of chapter, §25-27-101.

Creation, §25-27-103.

Definitions, §25-27-102.

Duties, §25-27-104.

Network manager, §25-27-105.

Short titles, §25-27-101.

TELEVISION.**State departments and agencies.**

Public service announcements.

Captioning on television, §25-1-109.

TOURISM.**State departments and agencies.**

Department of parks and tourism, §§25-13-101 to 25-13-104.

See PARKS AND RECREATION.

TOWNSHIPS.**Governing bodies.**

Open public meetings, §25-19-106.

Open public meetings.

Governing bodies, §25-19-106.

TRADE SECRETS.**Freedom of information.**

Advantage to competitors or bidders if files disclosed.

Files deemed not public records,
§25-19-105.

TREASURER OF STATE.**Accountants.**

Examination of books.

Accountants appointed by governor,
§25-16-614.

Accounts and accounting.

Accountants appointed by governor.

Fees, §25-16-614.

Duties, §25-16-604.

Examination of books.

Accountants appointed by governor,
§25-16-614.

Divulging appointment.

Accountant not to divulge,
§25-16-614.

Free access to books, §25-16-614.

Joint legislative committee,
§25-16-615.

Joint legislative committee to examine books, §25-16-615.

Deputy.

Appointment, §25-16-603.

Oath of office, §25-16-603.

Powers, §25-16-603.

Responsibility for acts, §25-16-603.

Duties, §25-16-604.

Letter book.

Duty to keep, §25-16-613.

Willful neglect or refusal to perform duty.

Penalty, §25-16-601.

Extortion.

Penalty, §25-16-601.

Felonies.

Examination of books by accountant appointed by governor.

Refusal to permit free access to books, §25-16-614.

General assembly.

Joint committee to examine books,
§25-16-615.

Report, §25-16-615.

Approval.

Action on approving report,
§25-16-615.

Unfavorable report.

Action on, §25-16-615.

Governor.

Reports to governor, §25-16-203.

Inspections.

Access to other offices, §25-16-605.

TREASURER OF STATE —Cont'd**Letter book.**

Duty to keep, §25-16-613.

Misdemeanors.

Violations of law by treasurer,
§25-16-601.

Warrants for payment of money.

Refusing to pay warrant, §25-16-607.

Oaths.

Deputy.

Oath of office, §25-16-603.

Power to administer, §25-16-606.

Penalties.

Examination of books by accountant appointed by governor.

Refusal to permit free access to books, §25-16-614.

Violation of law by treasurer,
§25-16-601.

Warrants for payment of money.

Refusing to pay warrant, §25-16-607.

Reports.

Biennial report, §25-16-610.

Holford bonds not reported as indebtedness of state, §25-16-610.

Joint legislative committee to examine books, §25-16-615.

Quarterly report to governor on notes and money from sale of state lands, §25-16-611.

Salary, §25-16-101.

Seal of office, §25-16-602.

Vacancy in office.

Examination of books by accountant appointed by governor.

Refusal to permit free access to books, §25-16-614.

Warrants for the payment of money.

Payment of state auditor's warrants.

Appropriations.

No payment made without appropriation, §25-16-607.

Balancing books, §25-16-612.

Cancellation on payment,
§25-16-607.

Certificates or scrip.

Issuance on auditor's warrants unlawful, §25-16-608.

Insufficient funds.

Method of paying warrants when funds insufficient, §25-16-607.

Payments made only on auditor's warrants, §25-16-607.

Refusing to pay warrant.

Penalty, §25-16-607.

Uncollectible state warrants or checks.

Claims for reimbursement,
§25-16-609.

TREASURER OF STATE —Cont'd**Warrants for the payment of money**

—Cont'd

Uncollectible state warrants or checks

—Cont'd

Payment of claims, §25-16-609.

Referral to general assembly,
§25-16-609.**TREASURERS.****Municipal corporations.**Pensions and relief fund for paid
nonuniformed employees,
§24-12-107.**TRESPASS.****State institutions.**Applicability of provisions, §25-17-302.
Fines.

Disposition, §25-17-303.

Prosecution of actions, §25-17-303.

TRUST FUNDS.**Local governments,** §§24-9-201 to
24-9-209.

See LOCAL GOVERNMENTS.

U**UNFAIR COMPETITION AND
TRADE PRACTICES.****Freedom of information.**Advantage to competitors or bidders if
files disclosed.Files deemed not public records,
§25-19-105.**UNIFORM ELECTRONIC****TRANSACTIONS ACT,** §§25-32-101
to 25-32-120.**UNIFORM LAWS.****Electronic transactions.**Uniform electronic transactions act,
§§25-32-101 to 25-32-120.**Federal encroachment on state
rights.**Uniform law to oppose federal
encroachments, §§25-21-101 to
25-21-106.See FEDERAL ENCROACHMENT
ON STATE RIGHTS.**UNITED STATES.****Federal encroachment on state
rights,** §§25-21-101 to 25-21-106.See FEDERAL ENCROACHMENT ON
STATE RIGHTS.**Finance and administration
department.**

Federal aid programs.

Duties of department as to,
§25-8-105.**UNIVERSITIES AND COLLEGES.****Center for workforce excellence,**
§25-7-102.

Establishment, §25-7-102.

Department of higher education.Center for workforce excellence,
§25-7-102.

Creation, §25-7-101.

Director, §25-7-101.

Divisions, §25-7-101.

Generally, §25-7-101.

Personnel of department, §25-7-101.

Depositories for public records.

Selective and partial depository.

Designation, §25-18-306.

Procedure to obtain state and local
publications, §25-18-307.**Freedom of information.**

Scholastic records.

Records deemed not public records,
§25-19-105.**Publication.**

Libraries.

Furnishing state and subdivision
publications to.Designated as depositories,
§25-18-306.

Procedure, §25-18-307.

Records.

Scholastic records.

Freedom of information.

Records deemed not public records,
§25-19-105.**Scholastic records.**

Freedom of information.

Records deemed not public records,
§25-19-105.**State library.**

Depositories for public records.

Procedure to obtain state and local
publications.State library to furnish,
§25-18-307.**UNIVERSITY OF ARKANSAS.****Depository for public records.**

County and municipal publications.

Furnishing to depository, §25-18-304.

Designation as official state depository,
§25-18-301.

Federal publications.

Furnishing to library, §25-18-305.

Printing.

Payment for printing, §25-18-303.

State publications.

Furnishing to depository, §25-18-302.

Publications.

General library.

Federal publications to be furnished,
§25-18-305.

UNIVERSITY OF ARKANSAS

—Cont'd

Publications —Cont'd

General library —Cont'd

State depository for public documents, §25-18-301.

Furnishing of publications to library, §§25-18-302, 25-18-303.

County and municipal governments, §25-18-304.

UNIVERSITY OF CENTRAL ARKANSAS.**Board of trustees.**

Honorary boards of management.

General provisions, §§25-17-201 to 25-17-211.

See STATE INSTITUTIONS.

V**VENUE.****Attorney general.**

Money due state.

Collection.

Suits for funds due state, §25-16-708.

VETERANS.**Local police and fire retirement system.**

Credited service, §24-10-509.

VETERINARIANS.**Examining board.**

Subpoenas.

Powers, §25-15-104.

VICTIMS OF CRIME.**Funds.**

Advisory bodies, fund administration duties, §25-1-107.

State agency designated to administer, §25-1-111.

VOLUNTEERS.**Human services department.**

Division of volunteerism, §25-10-128.

W**WARRANTS FOR THE PAYMENT OF MONEY.****Auditor of state.**

Appropriations.

No warrant drawn without appropriation, §25-16-517.

Bonds, surety, §25-16-519.

Review of bonding procedures, §25-16-519.

WARRANTS FOR THE PAYMENT OF MONEY —Cont'd**Auditor of state** —Cont'd

Drawing, §25-16-516.

Duplicate warrants.

Issuance, §25-16-519.

Review of bonding procedures, §25-16-519.

Form, §25-16-516.

Illegal issuance.

Penalty, §25-16-517.

Interest.

Not to bear interest, §25-16-518.

Loss or destruction of warrants.

Duplicate warrants.

Issuance, §25-16-519.

Numbering warrants progressively, §25-16-516.

Offset.

Use as offset prohibited, §25-16-518.

Payment of state auditor's warrants.

Treasurer of state, §§25-16-607 to 25-16-609. See within this heading, "Treasurer of state."

Register of warrants, §25-16-516.

Report to treasurer of amount of warrants drawn, §25-16-515.

School purposes.

No warrant drawn on general revenues for, §25-16-517.

State debt.

Warrants not received in payment of, §25-16-518.

Claims against the state.

Uncollectible state warrants or checks, §25-16-609.

Forms.

Auditor's warrant, §25-16-516.

Treasurer of state.

Payment of state auditor's warrants.

Appropriations.

No payment made without appropriation, §25-16-607.

Balancing books, §25-16-612.

Cancellation on payment, §25-16-607.

Certificates or scrip.

Issuance on auditor's warrants unlawful, §25-16-608.

Insufficient funds.

Method of paying warrants when funds insufficient, §25-16-607.

Payments made only on auditor's warrants, §25-16-607.

Refusing to pay warrant.

Penalty, §25-16-607.

Uncollectible state warrants or checks.

Claims for reimbursement, §25-16-609.

WARRANTS FOR THE PAYMENT OF MONEY —Cont'd**Treasurer of state —Cont'd**

Uncollectible state warrants or checks
—Cont'd

Payment of claims, §25-16-609.
Referral to general assembly,
§25-16-609.

WATER SUPPLY AND WATERWORKS.**Consolidated waterworks**

authorization act, §§25-20-301 to
25-20-323.

See INTERLOCAL COOPERATION.

Interlocal cooperation.

Consolidated waterworks authorization
act, §§25-20-301 to 25-20-323.

See INTERLOCAL COOPERATION.

WITNESSES.**Administrative procedure.**

Adjudication, §25-15-213.

Attorney general.

Oaths.

Administration of oaths, §25-16-705.

Municipal corporations.

Firemen's relief and pension fund.

Testimony of witnesses, §24-11-803.

State institutions.

Claims.

Allowance of claims.

Examination of witnesses,
§25-17-102.

WORKFORCE EDUCATION,

§§25-30-101 to 25-30-109.

Adult education funds, §25-30-103.**Board.**

Adult education funds, §25-30-103.

Creation, §25-30-101.

Higher education coordinating board.

Coordination with, §25-30-105.

Powers and duties, §25-30-102.

WORKFORCE EDUCATION —Cont'd**Board —Cont'd**

State board of education.

Coordination with, §25-30-104.

Department.

Authority to enter into contracts,
§25-30-108.

Creation, §25-30-106.

Powers and duties, §25-30-107.

Director.

Authority to enter into contracts,
§25-30-108.

Higher education coordinating board, §25-30-105.**Industry training program.**

Transfer of powers, §25-30-109.

**Powers and duties of board,
§25-30-102.****Transfer of powers, §25-30-109.****Y****YOUTH SERVICES.****Education requirements, §25-10-138.****Human services department.**

Admission policies.

Development of admission policies,
§25-10-109.

Privatizing functions or responsibilities.

Evaluation, §25-10-137.

Notice, §25-10-136.

Training requirements, §25-10-139.**Z****ZONING.****Interlocal cooperation.**

Waterworks.

Zoning exemptions, §25-20-316.

